

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 CORPUS CHRISTI DIVISION

4 M.D., ET AL § CASE NO. 2:11-CV-00084
5 VERSUS § CORPUS CHRISTI, TEXAS
6 GREG ABBOTT, ET AL § TUESDAY,
§ JANUARY 11, 2022
§ 8:57 A.M. TO 2:56 P.M.

7
8 STATUS CONFERENCE (VIA ZOOM)

9 BEFORE THE HONORABLE JANIS GRAHAM JACK
10 UNITED STATES DISTRICT JUDGE

11
12 APPEARANCES: SEE NEXT PAGE
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ALSO ATTENDING:

PAUL VINCENT
JUDITH MELTZER
ANN STANLEY
JAMIE MASTERS
CECILE YOUNG

1 CORPUS CHRISTI, TEXAS; TUESDAY, JANUARY 11, 2022; 8:57 A.M.

2 THE CLERK: Court calls Civil Action 2:11-84,
3 M.D., et al vs. Abbott, et al.

4 May we have appearances, please?

5 MR. YETTER: Paul Yetter for the Plaintiff
6 children.

7 MS. LOWRY: Marcia Lowry for the Plaintiff
8 children.

9 MR. NEUDORFER: Karl Neudorfer for Jaime Masters
10 in her official capacity as Commissioner of DFPS.

11 THE COURT: I'm sorry, the name again.

12 MR. NEUDORFER: Karl Neudorfer.

13 THE COURT: Thank you, Mr. Neudorfer.

14 MR. NEUDORFER: Sure.

15 MR. BRISSENDEN: Good morning, Your Honor.

16 Reynolds Brissenden from the Civil Medicaid Fraud Division
17 of the Texas Attorney General's Office appearing on behalf
18 of Cecile Young, in her official capacity as Executive
19 Commissioner of HHSC. Along with me here this morning are
20 Raymond Winter, Paul Moore, and Noah Reinstein also from the
21 Civil Medicaid Fraud Division of the Texas Attorney
22 General's Office.

23 THE COURT: Could I have your name one more time,
24 I'm sorry.

25 MR. BRISSENDEN: Yes, Judge. Reynolds Brissenden.

1 THE COURT: Thank you.

2 MR. HUDSON: Good morning, Judge. Eric Hudson on
3 behalf of the Office of the Governor.

4 MR. WATKINS: Your Honor, Clay Watkins is here as
5 well for DFPS co-counsel to Karl Neudorfer.

6 THE COURT: Thank you.

7 Any other parties?

8 (No audible response.)

9 THE COURT: I think that's everybody.

10 I've considered this as sort of a status
11 conference, I don't have any statement to give you today.
12 There are some bright spots in the Monitors' Report and yet
13 way too many grim places. So I want this to -- how I wanted
14 to start with the Panel's Report -- is the Panel present?

15 MR. VINCENT: Yes, Your Honor. This is Paul
16 Vincent.

17 MS. MELTZER: Yes. Good morning, Your Honor.
18 This is Judith Meltzer.

19 THE COURT: Thank you.

20 MS. STANLEY: Good morning, Your Honor. This is
21 Ann Stanley.

22 THE COURT: Thank you.

23 And thank you for the work you've done.

24 I thought we ought to start with the expert's
25 Report and then review the Monitors' Report. Then that was

1 their major Report, and then there are children without
2 placement Report. And then I have a list -- I went through
3 all the prior transcripts to write down prior concerns and
4 what the responses were and I wanted to review for status
5 purposes some of those concerns.

6 And DFPS, just as a starting -- another starting
7 place, do you understand now that the restraining order --
8 sorry the injunctive relief and all the remedies crafted to
9 support that injunction apply to all the children in your
10 care, the M.C. children?

11 MR. NEUDORFER: Your Honor, Karl Neudorfer for
12 DFPS again.

13 Our position is aligned with that of the
14 Governor's office --

15 THE COURT: Okay.

16 MR. NEUDORFER: -- and we're --

17 THE COURT: Then that's a yes?

18 MR. NEUDORFER: Yes, Your Honor. Our position is
19 that is aligned with that of the Governor's office and the
20 filing that they made I believe was in September, Your
21 Honor.

22 THE COURT: Well, I just need a clear yes from
23 DFPS, do you understand that to be the case?

24 MR. NEUDORFER: Yes, Your Honor.

25 THE COURT: Okay. Thank you.

1 And it's a good thing your cabinet member is
2 aligned with the Governor's position.

3 So Mr. Yetter, since this was your idea, did you
4 want to call members of the Panel? How do you want to
5 proceed with this?

6 MR. YETTER: Yes, Your Honor. I think that would
7 be a great idea. And I am open to whichever member you'd
8 like, Your Honor. Ms. Meltzer would be fine with us if we
9 -- if she might be the one that we could talk to first.

10 THE COURT: Okay. Anybody then can call any of
11 the others that want to and I want to hear from the others
12 as well if they have something to supplement. In fact, why
13 don't we just swear in the three Panel Members now,
14 Ms. Purifoy, because I want the Panel Members to feel free
15 to jump in to supplement at any point and add their thoughts
16 as we go along, so we don't have to circle back every time.

17 Ms. Purifoy?

18 THE CLERK: Yes, Your Honor.

19 Please raise your right hands.

20 (Panel Members Paul Vincent, Judith Meltzer, and Ann
21 Stanley sworn.)

22 THE CLERK: Mr. Vincent?

23 MR. VINCENT: I do.

24 THE CLERK: Ms. Meltzer?

25 MS. MELTZER: I do.

1 THE CLERK: Ms. Stanley?

2 MS. STANLEY: I do.

3 THE COURT: All right. Go ahead, Mr. Yetter.

4 MR. YETTER: Thank you, Your Honor.

5 I thought I would start very briefly with just,
6 since there's a lot of stakeholders in this -- listening to
7 this hearing, Your Honor -- and some of this I know Your
8 Honor already knows -- but I think it's important to put
9 into the context the excellent work that the Panel has done
10 to start with, their background. Start with a brief
11 overview of the amount of work they put into the Panel
12 Report and then move to the conclusions fairly quickly, if
13 that's okay with the Court?

14 THE COURT: That's fine with me.

15 MR. YETTER: Ms. Meltzer, again, just briefly,
16 this work that you've done here on behalf of all the parties
17 in this case with regard to child welfare issues in
18 connection with the Texas Foster Care System, is a subject
19 matter that you have spent your entire career working on, is
20 it not?

21 MS. MELTZER: Yes. Pretty much so.

22 MR. YETTER: And at this point I believe you've
23 been in the child welfare-related occupations and
24 professional for now 40 years?

25 MS. MELTZER: Yes. Probably 35. But yes.

1 MR. YETTER: And what is your current position
2 in --

3 THE COURT: She started as a teenager, Mr. Yetter.

4 THE WITNESS: I did.

5 MR. YETTER: I almost hesitated to say 40 -- but I
6 think it's significant that these are --

7 THE COURT: It is.

8 MR. YETTER: -- completely incredibly qualified
9 experts.

10 Ms. Meltzer, just briefly remind us again of your
11 position and your responsibilities right now?

12 MS. MELTZER: So I am currently the president of
13 the Center for the Study of Social Policy. We're a national
14 non-profit with offices in New York, Washington, D.C., and
15 Los Angeles. And we work with states and communities around
16 the nation on really improving life chances and
17 opportunities for children, youth, families, and
18 communities. I personally do a lot of work with states that
19 have been involved in trying to improve (glitch in the
20 audio) system in the context of class action litigation.

21 MR. YETTER: So have you -- it's fair to say that
22 you have not only in your day job, but in your consulting
23 work -- have dealt with issues like what the State of Texas
24 is struggling with now and reforming and improving its
25 Foster Care System.

1 MS. MELTZER: Yes.

2 MR. YETTER: Ms. Meltzer, one of your co-Panel
3 Members is Paul Vincent, who I believe you have worked with
4 in the past in his capacity in various context. Am I right
5 about that?

6 MS. MELTZER: Yes. That's right. I mean I can
7 let Paul -- maybe we can let Paul talk about his experience,
8 but I've worked with him over many years. He is one of the
9 most revered child welfare professionals in the nation,
10 because of both what he did as director of the Alabama
11 system when he was director and his work over many, many
12 years --

13 THE COURT: Okay. Just so we're clear, you're
14 talking about Mr. Vincent and not Mr. Yetter, who is also
15 good, but in another --

16 MS. MELTZER: That's right. I'm talking about
17 Mr. Vincent --

18 THE COURT: Thank you.

19 MS. MELTZER: -- and he was the founder and the
20 director of an organization called the Child Welfare Group,
21 which has been working with states all over the country.
22 Perhaps Mr. Vincent can say a little bit about himself for
23 the Record?

24 MR. YETTER: That would be fine with me. I'm not
25 sure he could say anything more glowing than what you just

1 said Ms. Meltzer, but I --

2 THE COURT: I think he's talking about
3 Mr. Vincent.

4 MR. YETTER: Yes.

5 MS. MELTZER: Yes.

6 MR. YETTER: Yes.

7 MR. VINCENT: Your Honor, I'll say something
8 briefly. So I worked in Alabama's child welfare system for
9 25 years and was its child welfare director for seven years
10 before I left the agency. And in those seven years the
11 Department was a Defendant in a class action lawsuit on
12 behalf of a class of children in child welfare who had
13 mental health needs.

14 And following that tenure in directing the child
15 welfare group, we provided technical assistance to states
16 around the country, maybe -- mostly focused on strengthening
17 front line practice. And in that role, became Court Monitor
18 in a number of states similar to the experience of
19 Ms. Meltzer, Utah and New York City, Tennessee, Los Angeles
20 County where I still have monitoring Panel role, and South
21 Carolina -- I think that's all of them.

22 So now I'm semi-retired and still continue in
23 monitoring roles in LA County and as a co-Monitor with
24 Ms. Meltzer in South Carolina.

25 THE COURT: Thank you, Mr. Vincent.

1 MR. YETTER: And while I have --

2 DR. KLEIN: Judge Jack?

3 THE COURT: Yes.

4 DR. KLEIN: Judge Jack, I just wanted to let you
5 know this is Dr. Arthur Klein (phonetic). I just joined,
6 thank you for allowing me to.

7 THE COURT: Thank you. But keep it -- keep it on
8 mute, Dr. Klein. Thank you.

9 DR. KLEIN: You got it.

10 THE COURT: The Monitors have a new expert, and I
11 wanted to tell you about Dr. Klein, who has recently become
12 available and he has offered to the Monitors to be a medical
13 expert pro bono, so I didn't want the State to be concerned
14 about possible fees in the future for Dr. Klein.

15 He has a particular interest in the area -- in
16 this area.

17 Go ahead.

18 MR. YETTER: Yes, Your Honor.

19 Ms. Stanley, why don't we move to you? And you
20 obviously have got an equally impressive background in child
21 welfare matters. In particular, you have a -- your firm has
22 a deep understanding or experience with the Texas Foster
23 Care System.

24 Am I right about that?

25 MS. STANLEY: Yes. That's correct.

1 I'm a managing director for Casey Family Programs,
2 which is the largest operating foundation in the country,
3 specifically focused on child welfare. We're really working
4 to improve child welfare systems in all 50 states and
5 territories. In my role at Casey -- and I've been there for
6 21 years, I have a long history of working in child welfare
7 and children's mental health -- is to oversee a group of
8 consultants, who specifically work in states to build strong
9 families, supportive communities, and really help children
10 stay safely with families whenever possible.

11 Prior to coming to Casey Family Programs, I was at
12 the Health and Human Services Commission in Texas and I led
13 an effort to bring together the child serving agencies in a
14 way that really provided important and needed support to
15 children and families, especially those children who are at
16 risk of being placed in residential treatment.

17 And prior to that I was a director of children's
18 mental health for what was often Travis County MHMR, now
19 Integral Care overseeing children's mental health services
20 in Travis County and surrounding counties.

21 MR. YETTER: Thank you, Ms. Stanley.

22 Ms. Meltzer, let me return back to you. And I
23 think one of the important aspects of the work that you did
24 was that it was independent. And if you could explain for
25 us the importance of why the work of this Panel,

1 Mr. Vincent, Ms. Stanley, and yourself, that each of you was
2 independent from the parties and why that was important to
3 you?

4 MS. MELTZER: Yes. So we were absolutely
5 independent and that's sort of been a hallmark of my work
6 over the -- over my entire career. That in trying to help
7 systems one cannot -- what we want to do is try to work
8 collaboratively with all the parties to get to solutions and
9 did not want to be, in this case, unduly influenced by any
10 of the parties in this litigation.

11 I've written personally on something that we call
12 "non-adversarial approaches to litigation," which is really
13 an attempt to focus on the substantive issues and minimize
14 the legal wrangling around some of these consent decrees and
15 other litigation strategies. So it was very important to
16 both Ann -- to Ann, Paul, and I that we be independent.

17 As someone said, I've worked with Paul in the
18 past, I knew him, I know that that was the case with him. I
19 did not -- never worked with Ann until this effort and it's,
20 of course, been a real pleasure and she added so much to our
21 abilities (glitch in the audio) things going on in states
22 that we were not familiar with, as well as really
23 understanding Texas, its history and culture.

24 We did this work completely independently. When
25 we interviewed people -- we relied on data provided to us by

1 DFPS and HHSC, so we did not independently validate their
2 data. We also relied on the information and data provided
3 in the Monitors' Reports, and we interviewed about
4 30 stakeholders over a very short period of time. In each
5 of those conversations, we identified to those stakeholders,
6 one, the independent nature of our work, and that nothing
7 that they told us would be identified with them. That we
8 would hold those conversations confidential, that we would
9 use them to make our assessments and findings, but we wanted
10 -- especially because the amount of time for this work was
11 so compressed -- we wanted to provide opportunities for
12 people to feel very candid in sharing both their concerns
13 and their suggestions for improvement.

14 MR. YETTER: Thank you, Ms. Meltzer.

15 Before we turn to the work that you did and the
16 information that you considered, let me just verify one last
17 thing. Your work was the Panel's -- Expert Panel's work was
18 independent of the parties, was it also independent of the
19 Court Monitors and, in fact the Court itself, in being
20 completely independent?

21 MS. MELTZER: Absolutely. We had absolutely no
22 contact with the Court, we interviewed the Court Monitors
23 just the way we interviewed the leadership at HHSC and DFPS.

24 MR. YETTER: So let's turn to the work that you
25 did in a fairly compressed time frame. And obviously the

1 parties put significant time constraints on the Panel's
2 work, roughly 60 days, given the -- did you understand why
3 the parties were so interested in quick work by the Expert
4 Panel?

5 MS. MELTZER: Yes. You know, I think each of us
6 agreed to do this, because we recognized the urgency of the
7 task, and we recognized that the numbers of children in
8 Texas that are cycling in and out of these unlicensed
9 placements is just really unacceptable, right? And
10 everybody is concerned about doing something about it. So
11 that was really why we agreed, each of us, to do this. And
12 particularly, you know, recognizing that the time frame was
13 very constricted.

14 MR. YETTER: So within the 60 days that the Expert
15 Panel did its work, you've already shared with us that you
16 interviewed 30 stakeholders. I think you have Appendix A,
17 which lists almost daily interviews by the Expert Panel with
18 various stakeholders.

19 Is that what Appendix A shows?

20 MS. MELTZER: Yes. That's right.

21 MR. YETTER: And beyond the interviews, how much
22 data did you all and your staff digest?

23 MS. MELTZER: So we began by reading some of the
24 core foundational documents that related to this, which
25 include the Monitors' Reports to the Court, which includes

1 Reports prepared by the Department and shared with the
2 legislature, which included the Reports provided by the
3 Departments to the Court. We began by those.

4 Everybody we talked to had more information for us
5 and shared with us data and documents which we read.
6 Everybody we talked to, we asked if there were things they
7 said they could send us that they thought we should look at,
8 including their own data and documents. So you know, it was
9 a voluminous amount of material that we tried to both
10 categorize and digest as we did this work.

11 In addition to the interviews, which by and large
12 we did as a team, altogether there may have been a few that,
13 you know, two of the three of us did. We met quite often
14 among ourselves to share our, you know, our understandings
15 of what was going on, make sure that we were getting things
16 right -- at least from our perspective.

17 MR. YETTER: Sure. So one last question on that
18 source of information. You mentioned that much of it came
19 from the State itself, and was the State agencies, DFPS and
20 HHSC, were they cooperative and provide you with all the
21 data that you all asked for?

22 MS. MELTZER: They were absolutely cooperative,
23 and I think we all want to thank them for their -- for their
24 engagement of this. Not only were they cooperative in, you
25 know, helping us to get the interviews set up quickly, but

1 when we -- we had lots of follow up questions, and we went
2 back to them and asked for data about this or data about
3 that, asked them to try to produce data on things that we
4 had not seen, if they had that data available, and, you
5 know, both of the State agencies were completely cooperative
6 in our effort.

7 MR. YETTER: Given how important they are in this
8 whole situation, obviously the State is caring for these
9 children, did the Panel -- do you feel like the Panel made
10 every effort to give the State agencies as much input into
11 this process as you felt they wanted or you felt they
12 needed?

13 MS. MELTZER: Yes. I guess I think so. I think
14 that when we produced our draft Report, actually the State
15 agencies and the Court Monitor wanted to have an additional
16 conversation with us about our draft. We declined that, we
17 got comments from people, written comments which were
18 helpful and informed our final product, but we declined the
19 last set of conversation.

20 MR. YETTER: So just to be clear, before the final
21 Expert Panel Report was done, you gave the State a chance to
22 comment in writing?

23 MS. MELTZER: Yes.

24 MR. YETTER: And did the Panel take those comments
25 into consideration in finalizing --

1 MS. MELTZER: Absolutely.

2 MR. YETTER: So let's move to the conclusions, if
3 we could. And I'm going to keep this at a fairly high level
4 and we can -- obviously we can go into any one of them in
5 more detail. But I'm going to -- and I'm not going to try
6 to test your memory, Ms. Meltzer, but I'm going to refer to
7 your Report.

8 And in the conclusion, at a high level, kind of
9 summarizing, it seems to me that what the Expert Panel
10 Report suggests is the solution, in the near term and the
11 long term, to this crisis of children being put into
12 unlicensed placements is three things: Strong leadership,
13 strategic coordination across all stakeholders, and a
14 targeted infusion and coordination of resources. And I'm
15 quoting from the conclusion on page 24.

16 Is that a fair summary of the three main
17 recommendations and conclusions that the Panel came to?

18 MS. MELTZER: Well, I think that's a fair summary
19 of three of the main recommendations and conclusions that we
20 came to. I think we believe very strongly that there have
21 to be both short-term solutions to deal with the children
22 who are currently cycling in and out without placement, and
23 those require leadership, accountability, coordination among
24 the agencies, and we had very specific recommendations about
25 getting resources and clinical staffing for those children.

1 I think we also recognize that the roots of this
2 problem, you know, do not lie in -- it's not a -- there are
3 roots of this problem that go back many years and that they
4 reflect the need for fairly significant systemic reforms
5 both within HHSC and the Department to increase the
6 availability of services and supports to children and
7 families in homes and communities. So many of our
8 recommendations are about that and reflect the need to, you
9 know, focus on reducing the trauma for these children.

10 So yes, your three points are good ones and
11 they're right, and they're what we said. I think we had --
12 we were -- we want the message to be and children and these
13 children had to be recognized as children, not as (glitch in
14 the audio) youth, you know, a group that is responsible for
15 these problems. That we need to focus on that in a very
16 individualized way to begin to heal the trauma that these
17 children have experienced and provide the resources
18 necessary for them to heal and thrive. So that's a very
19 important part of our findings.

20 I think we also, you know, we also felt that the
21 high level of interest in this problem that was communicated
22 to us by everybody that we talked to, is an asset for the
23 State, that people are concerned about this, they're
24 interested in this, there is -- there are many opportunities
25 to build on things that are currently happening within the

1 State, you know, to improve the system. So some of that is
2 reflected in our recommendations as well.

3 THE COURT: Can we just go through these
4 recommendations one at a time? I want to address HHSC and
5 DFPS to see which ones they're going to follow.

6 I really would like to cut to the chase,
7 Mr. Yetter.

8 MR. YETTER: Okay, Your Honor.

9 THE COURT: First, I'm not sure if you and your
10 Panel are aware, that the State is apparently pleased to
11 give up \$44 million this year and next year from the Federal
12 Government by not -- because they refuse to be in compliance
13 with Family First, which requires, of course, lower use of
14 qualified GROs, lower use of congregate care, and that
15 certain requirements be met.

16 And I don't know if you have seen DFPS's plans.
17 After our September hearing they told me they would get
18 together plans to handle the array problem that we have in
19 Texas, which is just significant. In contrast, as I said
20 last time to Oklahoma, which closed 40 percent of their GROs
21 and did not have this problem of placement because they were
22 prepared. Texas, in spite of 11 years of litigation, was
23 not prepared for closing these unsafe GROs and thrust all
24 these children in hotels, motels, and offices, whereas you
25 can see from the Monitors' Report, from their children in

1 unlicensed care, that they were subject to sex with hotel
2 staff members, tasers, they were tased by the security
3 officers hired by DFPS to stay at these unlicensed placement
4 areas. Two 13-year-old's were pepper sprayed, children were
5 slapped. You know, this is what happened.

6 Now DFPS's plans that they promulgated and gave to
7 the Monitors who shared with me, the number one thing is
8 building a stronger congregate care network.

9 Did you know that, Ms. Meltzer?

10 MS. MELTZER: We knew that that was part of their
11 plans. And I think as we said in the Report, we really
12 disagree with that.

13 THE COURT: Yes.

14 MS. MELTZER: We think the solution to the problem
15 is not more congregate care.

16 THE COURT: And in fact, there isn't a single
17 expert in the field of child protection that recommends
18 congregate care, unless except in exceptional circumstances;
19 is that right?

20 MS. MELTZER: Yes. If it's needed for treatment
21 for short periods of time.

22 THE COURT: But yet here we are, struggling in
23 this situation, with a Department that not only believes in
24 congregate care, for whatever reasons, for the pride of it,
25 for profit congregate care people, for the not-for-profit

1 congregate care people and the lobbyists they support. And
2 it's just a chain, as I'm sure you're aware, Ms. Meltzer.

3 MS. MELTZER: You know, I don't know enough about
4 Texas to understand the -- you know, the politics of this.
5 But I do believe that there is an overemphasis on the use of
6 congregate settings.

7 THE COURT: Yes. And I have a real concern about
8 that. So also have you worked in any State that suddenly,
9 after the trial by the way, split their licensing division
10 into HHSC and the Child Protective Services into DFPS?

11 MS. MELTZER: I'm not sure I'm qualified to answer
12 that question, Judge Jack. So many states keep licensing,
13 you know, together within the agency and there are some
14 states that I'm aware of that separate out some licensing
15 functions, particularly for medically based facilities.

16 THE COURT: Right.

17 MS. MELTZER: From the -- agency, but I'm not an
18 expert on that. I don't know if Ann or Paul want to
19 respond.

20 THE COURT: Anybody else on the Panel know about
21 separating these two agencies, these two entities that are
22 so vital to childcare and HHSC originally said they were not
23 child focused, they were facility focused.

24 That would be Mr. Vincent?

25 MS. MELTZER: You're on mute.

1 THE COURT: You're on mute, Mr. Vincent.

2 (No audible response.)

3 THE COURT: You're still on mute.

4 How about we go -- while you work out the mute
5 problem -- to Ms. Stanley.

6 MS. STANLEY: I'm, you know, in the same boat as
7 Judith. There are so many ways that child welfare and their
8 Department of Human Services are organized. Having a split
9 isn't unusual, and so I believe when we -- in the Report
10 that we spoke to that. And --

11 THE COURT: Yes.

12 MS. STANLEY: -- it increases the need for
13 coordination and collaboration, which was lacking between
14 the two agencies.

15 THE COURT: And it still is. You know, the
16 computer systems are split, they don't talk to each other.
17 And DFPS, for instance, since the beginning -- since we've
18 had these hearings at post-remedy in 2019, the DFPS, for
19 instance, will issue citations, and HHSC would vacate them.
20 And vice-versa. And so it has devolved somehow into a
21 semi-adversarial position. And I don't know how, for the
22 children's sake, to make that un-adversarial.

23 What recommendations do you all have?

24 In fact, so much so that the last time we met, we
25 reviewed some testimony in a private placement center in

1 Houston that was suing the State for revoking the license
2 because it was unsafe. And DFPS sent its person Trevor
3 Woodruff to testify that it was perfectly safe and HHSC sent
4 its experts to say in no way is it safe.

5 So that's the atmosphere we've been working in.

6 By the way, Ms. Masters, where did Trevor Woodruff
7 go?

8 (No audible response.)

9 THE COURT: Is Ms. Masters here?

10 MR. NEUDORFER: Yes, Your Honor. She is, bear
11 with us for just one moment, she'll be right here ready to
12 speak to your question.

13 THE COURT: Trevor Woodruff testified on behalf of
14 DFPS that it was a safe placement in spite of the incredible
15 citations that had been issued.

16 MS. MELTZER: So, Your Honor, it was very clear to
17 us that when we talked to providers that they feel caught --
18 they frequently feel caught in the middle, because of the
19 lack of coordination and they want there to be a clear
20 coordinated strategy from both Departments.

21 THE COURT: Yes. Mr. -- okay. Ms. Masters, where
22 did Mr. Woodruff go?

23 MS. MASTERS: He resigned from the Department,
24 Your Honor.

25 THE COURT: Okay. Where is he working now?

1 MS. MASTERS: I'm not sure where he's working.

2 THE COURT: Well, you told the Monitors he was
3 working for one of the providers, which we assumed he was
4 all along, but what provider is he working for now?

5 MS. MASTERS: I would have to check. I know that
6 he didn't want to reveal too much when he left. He did make
7 it clear it was a provider, but I don't know that he would
8 want me to reveal where.

9 THE COURT: Well, I'm telling -- I'm ordering you
10 to do it, tell me now.

11 MR. NEUDORFER: Your Honor, I don't know that we
12 can do that without Mr. Woodruff's permission.

13 THE COURT: Is there some -- is there some -- tell
14 me exactly what the privilege is why you're denying this
15 Statement?

16 MS. MASTERS: Well, for me, Your Honor, I can just
17 go give him a call and ask. I didn't ask him what agency he
18 was going to.

19 THE COURT: Okay. Well, give him a call. Because
20 he's already there, so it shouldn't be a secret, right?

21 MS. MASTERS: One second please.

22 THE COURT: Okay.

23 Go ahead, Mr. Yetter.

24 Oh. I'm mispronouncing your name Ms. Meltzer.

25 MS. MELTZER: It's okay. It's Meltzer.

1 THE COURT: Meltzer.

2 MS. MELTZER: It's okay.

3 THE COURT: All right. Tell me --

4 MR. YETTER: Your Honor, I think Mr. --

5 THE COURT: -- please what's -- what's your --
6 okay.

7 MR. YETTER: -- Mr. Vincent --

8 THE COURT: Mr. Vincent is with us?

9 MR. YETTER: -- wanted to answer yes.

10 MR. VINCENT: Yes.

11 THE COURT: Yes. Go ahead we were talking about
12 the split between HHSC and DFPS.

13 MR. VINCENT: Judge, if you're asking me, in my
14 career as a -- in a consulting role in over 20 states that
15 we worked in, in that 20-year period, I don't recall ever
16 seeing this division between these two functions. It's not
17 to say it might not exist in some states, but --

18 THE COURT: It does exist here. And it's not -- I
19 can tell you, it's not --

20 MR. VINCENT: I've never encountered it.

21 THE COURT: -- been beneficial.

22 Go ahead, Mr. Vincent. Thank you.

23 MR. VINCENT: I just said I've never encountered
24 it.

25 THE COURT: Well, and I cannot understand what the

1 thinking was. It occurred right after trial and before I
2 issued my order in 2015. Trial was in 2014, the order came
3 in December of 2015, it was between those two periods.

4 So what are your thought processes to get these
5 agencies to cooperate? I must say that with us anyway, in
6 court and with the Monitors, HHSC has been extremely
7 cooperative. It's one little glitch that the Monitors are
8 going to try to work out later, but we've not found that to
9 be the case with DFPS.

10 Any thoughts on how to fix this?

11 MS. STANLEY: Well, I think one of our
12 recommendations and one of the things I think we were
13 surprised to not find initially was an interagency team.
14 That was really working on this issue between HHSC and DFPS,
15 but also to include some other child serving agencies as
16 relevant. And included in that team would be a lead,
17 someone who was in charge of and accountable for insuring
18 that the interagency team developed the plan, that they
19 executed on that plan, and that they used data to inform the
20 work and that they consistently were able to gather
21 information from children and families at the local level to
22 inform work that was really meeting family needs, was
23 flexible, and was thinking outside of things they had
24 already tried.

25 THE COURT: Okay. Ms. Masters, are you committed

1 to -- yes or no -- forming an interagency commission --
2 committee?

3 MS. MASTERS: Yes.

4 THE COURT: Ms. Young?

5 MS. YOUNG: Yes.

6 THE COURT: Do you want me to help you pick a
7 chair, or can you all do that yourselves?

8 MS. MASTERS: We can do that ourselves.

9 THE COURT: All right. And how quickly can you do
10 that?

11 MS. MASTERS: We will be meeting this week.

12 MS. YOUNG: Agreed.

13 THE COURT: Thank you, Ms. Masters and Ms. Young
14 and the Panel Members for your facilitation in that.

15 So let's go on to the next issue. We have -- I
16 know you addressed stakeholders concerns about fees. I
17 think you handled appropriately the concerns about -- that
18 they were objecting to heightened monitoring, and there's a
19 lot of politics in that. So that is a settled issue by the
20 Fifth Circuit, as well as the exit plan from heightened
21 monitoring. That is a settled issue that cannot be changed.

22 So if you all understand that, that is also
23 something that is in remedial -- the exit plan is in
24 Remedial Order 20 and has been affirmed by the Fifth
25 Circuit. And as subsequent appeal by the State taught me

1 and some of the other people that you really cannot issue
2 new remedies at all. So that's fixed.

3 MR. YETTER: Your Honor, may I follow up on that
4 point, just briefly?

5 THE COURT: Yes, sir.

6 MR. YETTER: Okay. Ms. Meltzer, on behalf of the
7 Panel, the Panel did hear all sorts of issues, you took
8 input from all sorts of stakeholders and I just want to
9 highlight three points that it seemed to me the Panel was
10 very clear were not the solution. If I could get you to
11 verify. One, reduced safety monitoring, including
12 heightened monitoring, is not the solution to the crisis
13 that we're in, right?

14 MS. MELTZER: That's correct.

15 MR. YETTER: Blaming the children is not the
16 solution to the crisis that we're in, right?

17 MS. MELTZER: That's correct.

18 MR. YETTER: And more group homes, more congregate
19 care, is a bad idea and it's not the solution to the problem
20 -- the crisis that we're in, am I right?

21 MS. MELTZER: That's correct.

22 MR. YETTER: But I suspect it's true that you
23 heard from all stakeholders some variation of each of those
24 complaints and none of them are a solution to the crisis
25 that we're in, right?

1 MS. MELTZER: That's correct.

2 MR. YETTER: Sorry, Your Honor. I just wanted to
3 make that point.

4 THE COURT: No, thank you. Thank you, Mr. Yetter.
5 As usual, you clean up my questions nicely.

6 So in sum for that area, do you accept that those
7 three premises as correct, Ms. Young? Commissioner Young?

8 MS. YOUNG: Yes, Your Honor.

9 THE COURT: Commissioner Masters?

10 MS. MASTERS: Yes, Your Honor.

11 THE COURT: And Commissioner Masters, can you
12 rework your plan to increase congregate care to address the
13 concerns that both the Court and the Panel and the
14 Plaintiffs have?

15 MS. MASTERS: We can.

16 THE COURT: Were you all able to read the
17 Monitors' update on the children in unlicensed placements
18 that was filed yesterday?

19 MS. MELTZER: Yes, Your Honor.

20 THE COURT: It's pretty stunning -- it's pretty
21 sad, isn't it?

22 MS. MELTZER: Yes, Your Honor.

23 THE COURT: I had to read it and take breaks,
24 because it broke my heart that Texas is treating their
25 children like this. And to think that these children have

1 been in and out -- we'll get to that later, but I mean one
2 of those footnotes with those children that had been in 10,
3 15, 20 placements in a small matter of time, just points out
4 the failure of the system to help these children. And when
5 somebody testifies before the legislature that one of the
6 big problems is the police not arresting these children
7 enough and bringing them back too quickly after they arrest
8 them, is a huge concern that I have as to a mind set of an
9 agency.

10 Did you know about that, Panel?

11 MS. MELTZER: Yeah. I'll speak for myself right
12 now because the Panel hasn't discussed this as a Panel, but
13 I must say that the story that really touched me very
14 strongly, when reading yesterday's Report, was the eight or
15 nine-year-old child who wouldn't go to bed --

16 THE COURT: Was that the story by the police
17 officer?

18 MS. MELTZER: Yes. And so how it escalated in
19 terms of people understanding how to de-escalate the
20 situation with that child until they had a police officer
21 who read a story to the child and was then able to get her
22 to settle.

23 You know, for me that was such a poignant example
24 of why -- which Paul reminds us of all the time working on
25 the practice so that the people that are interacting with

1 children and families really understand how to talk to kids,
2 how to listen to kids, and then how to intervene is so
3 important.

4 Mr. Vincent, maybe you want to add a little to
5 that since you're always reminding us of the importance of
6 that?

7 MR. VINCENT: Well, apart from just being sad
8 about the circumstances of those examples, which were --
9 which are helpful to make this problem real instead of sort
10 of the abstraction it becomes, you know, in big
11 organizations. And I'm not criticizing either Department
12 for that, there's just that tendency in bureaucracies.

13 We interviewed a worker who was speaking of an
14 experience -- her experience with a rental house where one
15 of her children was, and it was striking to hear how
16 committed she was to this very challenging youth. She
17 understood the defiance, she had a relationship with the
18 child, and she felt responsible for trying to make sure this
19 child had new outcomes than it had -- than she had.

20 And you know, I think that's the organization the
21 Department has to strive to create.

22 A lot of new services are essential, better
23 support for kin is necessary, you know, better interagency
24 coordination is important. But you know, as we speak to in
25 the section on practice, you want to workforce that has

1 empathy for these kids and feels a singular responsibility
2 to solve many of the problems that bring kids to the
3 Department's attention.

4 And so I couldn't help but think of her and what a
5 difference it would make if the entire workforce had that
6 view of the children it serves.

7 THE COURT: I'll tell you, we've had such a
8 historic adversarial position with all of -- with both of
9 these agencies for many years, that I think one agency has
10 been able to adjust better than another agency, and I would
11 love any suggestions you have to help me with that.

12 MR. VINCENT: Are you speaking of the example I
13 was using or --

14 THE COURT: Just in general the -- no, and I
15 appreciate your suggestions on certainly there needs to be a
16 training. You know, for some time these children without
17 placements were handled and still are in unlicensed
18 facilities like hotels, which is so dangerous, offices --
19 caseworker offices where they were actually trafficked, sex
20 trafficked during the day, and completely unsupervised, and
21 not in school, and not getting their medications by
22 caseworkers who are not trained (glitch in the audio) in
23 restraints, they're not trained in soothing children or
24 talking them out.

25 As you pointed out, Ms. Meltzer, the training has

1 been a lost component and it's not the caseworker's fault
2 for sure. They just aren't trained in medications or in
3 restraints and so their first reaction in too many times has
4 been just call police when these children are acting out.
5 And these are children by the way who have such troubled
6 histories, they're mostly 14 to 17-years-olds, they have had
7 psychiatric hospitalizations, they have been on psychotropic
8 medicines, they have been abused before they were in care
9 and then abused after they were in care repeatedly.

10 And so the way they act out is perfectly
11 understandable and should be anticipated, yet the people
12 that are responsible for actually taking care of them 24/7
13 have no training to do so.

14 MS. STANLEY: Your Honor, I think one of the --
15 sorry, Paul, were you speaking?

16 MR. VINCENT: Yeah. Go ahead.

17 MS. STANLEY: Oh, I was just going to mention from
18 the Panel, thank you, Paul.

19 One of the things we recommended is that both HHSC
20 and DFPS create a shared values and principles. They're
21 really guided by a trauma informed approach. And that --

22 THE COURT: It's reactionary -- it's a reactionary
23 approach.

24 MS. STANLEY: Right. And really understanding
25 some of the root causes of behavior linked to trauma and

1 training to that, and that part of what's missing right now
2 is a really coordinated approach at the child and family
3 level. There's a lot of activity going on, there are a lot
4 of staffing, but it's not coordinated. We really see the
5 potential to have immediate impact to improve the children's
6 situation by having a clinical coordinator assigned to every
7 child who is in unlicensed care, and to have that clinical
8 coordinator be able to direct a multidisciplinary team. And
9 to be able to follow the child when they're discharged from
10 an unlicensed placement, because what we see are children
11 going back to unlicensed placement at a very high rate, the
12 recidivism --

13 THE COURT: Recycled -- recycled over and over
14 again.

15 MS. STANLEY: Yes. And it really requires
16 following, an individual to follow that child. The
17 caseworker has too many cases and the turnover is such that
18 we can't depend on them to fulfill that function.

19 THE COURT: Well, did you have any -- what is your
20 recommendation as to broadening the array for family-based
21 kinship and family-based -- one of the things that you -- I
22 want to point out and ask about the funding, because there's
23 funding -- there should be funds they can use for this to
24 increase the funding for kinship placement.

25 Ms. Masters, can you do that? Did you understand

1 that from the Report and can you do that?

2 MS. MASTERS: I did -- I did understand it from
3 the Report, Your Honor, I don't know that I have the
4 authority to increase the funding for kindship, but that is
5 one of the meetings that I will be having.

6 THE COURT: Who does have the authority?

7 MS. MASTERS: That may be the authority of the
8 legislature, but I can't say that for sure at this point.

9 THE COURT: When can you find out?

10 MS. MASTERS: I will be having meetings on all of
11 these topics over the next couple of weeks.

12 THE COURT: So what are you going to do for the
13 44 million from the Federal Government on the congregate
14 care placement, is that just gone for '22 and '23?

15 MS. MASTERS: So I can't -- I'm not sure that that
16 is the case, Your Honor. I will find out.

17 THE COURT: It's going to require a major
18 restructuring of these congregate care facilities.

19 MS. MASTERS: Agreed.

20 THE COURT: Have you got anybody on that? Who
21 have you got in charge of restructuring these placements?

22 MS. MASTERS: I will be working with our CPS
23 associate Commissioner Jeanine Grander (phonetic) and our
24 contracts team.

25 THE COURT: And what about the funding for the

1 mobile mental health thing, which looks so wonderful, can
2 you get that?

3 MS. MASTERS: That would be on the HHSC side, I
4 believe.

5 THE COURT: Okay. Ms. Young, how about that? Can
6 you get that?

7 MS. YOUNG: Yes, Your Honor. We will also have to
8 look to see what additional funding might be needed, and we
9 can work on that in the same way over the next four weeks
10 and get back to the Monitors and let them know.

11 THE COURT: Okay. And what are the other funding
12 that you recommended? I'm looking for the pages.

13 MR. VINCENT: Well, one of the suggestions we made
14 was for the Department to consider a particular Medicaid
15 waiver option. I'm not too familiar with the fiscal
16 constraints the Department experiences in terms of
17 legislative support -- but I have a colleague who is a
18 Medicaid expert who was advising me on new strategies for
19 supporting mental health services for kids in foster care --
20 and pointed out among all of the federal waivers there was
21 one provision, one waiver, that did not hold states to
22 federal cost neutrality. It's an 11-15I waiver where you
23 could just target kids in foster care.

24 There would be more costs, because the State would
25 be creating more resources. But this State and another

1 State on the West Coast are using it to create a very
2 diverse public services like mobile crisis teams and other
3 intensive supports to children in their own homes that could
4 be very promising to states.

5 THE COURT: Okay. What have you done --

6 MR. VINCENT: The Departments --

7 THE COURT: What -- can you commit to looking into
8 that and doing everything you can to get that funding, the
9 extensions?

10 Ms. Masters, Ms. Young?

11 MS. MASTERS: Medicaid would be housed at HHSC.

12 THE COURT: Okay. HHSC. What's the story with
13 that?

14 MS. YOUNG: Yes, Your Honor. We will look into
15 this, I'm not -- I'm not certain what this waiver is, but we
16 will look into it.

17 MR. VINCENT: How soon do you --

18 THE COURT: Well --

19 MR. VINCENT: Excuse me, Your Honor.

20 THE COURT: Go ahead.

21 MR. VINCENT: I'll send you a link to this
22 colleague and copy of their plan amendment.

23 MS. YOUNG: Thank you very much.

24 THE COURT: And what about HHSC the identifying
25 existing partial hospitalization programs with the highest

1 potential for expansion and begin negotiations to procure
2 more slots?

3 MS. YOUNG: Your Honor, I think that might also
4 require additional appropriations. Again, I would have to
5 look at it, we will have our staff look at it in the next
6 couple weeks again and get back to the Monitors.

7 MR. YETTER: Your Honor, may I circle back to the
8 mental health issue just for one line of questioning?

9 THE COURT: You know, that's just kind of an
10 overriding issue in every child that is in foster care. It
11 is the most critical issue, and you know, it has been my
12 concern for years now that there are no proper mental health
13 records or physical health records in these files, which
14 we'll get to later.

15 But go ahead and say anything you want to about
16 the mental health. I'm very concerned about both those
17 issues.

18 MR. YETTER: Thank you, Your Honor.

19 Ms. Meltzer, let me return back to you. One of
20 the -- one of the most blunt points that the Report makes is
21 about the state of the -- system of mental health care for
22 children -- care for children's mental health. And I say
23 system loosely, because there really isn't one, and the
24 Report makes the factual statement that the State has been
25 quote, "Working on a State-wide system of children's mental

1 health for 25 years. Since the late 1990's, but that the
2 current system of care in Texas is woefully inadequate."

3 How important is that, Ms. Meltzer, to all of the
4 Panel Members, how important is a well thought out, well
5 executed, system of care for children's mental health to be
6 a well running child welfare system?

7 MS. MELTZER: You know, it's central, right? It's
8 absolutely central. Because if your goal is to reduce the
9 number of children and youth who have to come to the
10 attention of the child welfare system, you have to have a
11 state-wide system of access to mental health supports to
12 families, to serve children.

13 So what you have in Texas now is, you know, you
14 have families giving up their rights to their children in
15 this joint conservatorship, because they think they're sort
16 of at their wit's end in being able to find access to
17 services for their children, that they think that a path to
18 get services to their children is to give them
19 responsibility to the State.

20 You know, so you have to begin to reverse that.
21 So that you know, biological families, kin families, that
22 they can feel that they're going to be supported if they
23 take care of the children, you know, their children. And
24 you don't have that now.

25 I mean, one of the -- I've been involved over -- I

1 don't know, 15 years with the State of New Jersey, which
2 really has turned around their child welfare system. And
3 two of the most important reforms in the New Jersey system
4 were, one, that they developed -- they have developed a
5 state-wide system of care for mental health services for
6 children and families that you don't have to be in the child
7 welfare system in order to get access to those services.

8 And the other actually -- and it's not something
9 we recommended in the Report because we didn't -- we didn't
10 get to that point. Is they actually developed a system of
11 having nurses attached to child welfare units, who could
12 help the workers -- families, you know, get access to the
13 full range of both medical and behavioral health services
14 for the children in --

15 THE COURT: Okay. So we have in the past, and I'm
16 never given up on this, asked both the Departments to check
17 with other states in how they have managed their array
18 problem. How they have managed all kinds of problems, and
19 that's not occurred.

20 So maybe we can get a commitment today from
21 Ms. Young and Ms. Masters, within the next 30 days to
22 develop a plan to expand mental health care services. To
23 children in kinship, as well as in conservatorship.

24 Do you think you could do that, Ms. Masters?

25 MS. MASTERS: Yes, Your Honor. And I already have

1 met with several states.

2 THE COURT: Thank you.

3 I'm behind the times. Thank you, Ms. Masters.

4 And Ms. Young?

5 MS. YOUNG: Your Honor, I know Shane Shaw
6 (phonetic), who is here with me, has also talked to other
7 states, but we will -- I know we are having a meeting with
8 the Expert Panel on the 21st. One of the things we want to
9 make sure is that we fully understand the work that they've
10 done, it's -- I have to just say it's been very impressive,
11 and I really appreciate all of the work that they have done
12 in interviewing both our staff, DFPS, and the stakeholders.

13 It's very impressive, we want to make sure we
14 fully understand. Just sitting here in this hearing, it's
15 obvious that there is a wealth of information behind the
16 Report and we think that's going to be very important in
17 helping guide us.

18 So thank you, Your Honor.

19 THE COURT: Okay. So you can commit to coming up
20 with a plan in 30 days?

21 MR. BRISSENDEN: Your Honor, this is Reynolds
22 Brissenden for HHSC.

23 Part of the collaboration agreement for
24 Mr. Yetter's proposal, one of the things that we had agreed
25 to as the parties was to have the opportunity to meet with

1 the Expert Panel and discuss these in more detail, similarly
2 to what we're doing today. So we've worked to get that
3 meeting set up, it's set for January 21st, and we appreciate
4 the hard work of the Expert Panel and recognize the hard
5 work that they did in a short time frame and --

6 THE COURT: Okay. No more legalese --

7 MR. BRISSENDEN: -- and want to meet with them --

8 THE COURT: -- I'm asking if they'll commit today
9 to come up with a plan in 30 days. You will have met with
10 the experts then.

11 We've been doing this for 11 years. I know you're
12 new to the case, I'm not. I just need some results for
13 these children and no more legal-speak, please.

14 Ms. Young, can you commit to try to come up with a
15 plan in 30 days to work on this?

16 MS. YOUNG: Your Honor, we will commit to doing
17 something in the 30 days -- I don't know if 30 days is
18 reasonable for a thorough plan, but --

19 THE COURT: Tell me how much. What do you think,
20 90 days?

21 MS. YOUNG: Your Honor, I honestly don't know. I
22 want to do it right.

23 MR. BRISSENDEN: And we've provided the Report to
24 our staff here at HHSC and the leadership team and they are
25 evaluating that and will be present at the meeting on the

1 21st.

2 THE COURT: Ms. Meltzer, what's a reasonable time
3 to come up with a plan?

4 MS. MELTZER: Oh, God --

5 THE COURT: You've got timelines in here of
6 30 days, 90 days.

7 MS. MELTZER: I would say that 90 days makes sense
8 in terms of being reasonably getting people together to know
9 what directions they're going to take and have them --

10 THE COURT: Okay. This is for the mental health
11 prong of this.

12 Can you do that, Ms. Masters, within 90 days, work
13 with Ms. Young to come up with a plan to address these
14 issues?

15 MS. MASTERS: Yes. And for those (glitch in the
16 audio) we've already (glitch in the audio) --

17 THE COURT: Ms. Young, can you do that?

18 MS. YOUNG: Yes, Your Honor.

19 THE COURT: Thank you.

20 Okay, moving right along, Mr. Yetter, next?

21 MR. YETTER: Yes. So, Your Honor.

22 Ms. Meltzer, I want to focus on another issue or
23 approach that the State has been -- that the agencies have
24 been taking in the last couple of years in particular and
25 whether it's a solution. The Panel on page 10 of the Report

1 talks about the State's placement of children out of state,
2 is putting -- is shipping children out of state a solution
3 to the current crisis -- a solution that makes sense for the
4 children to the current crisis?

5 MS. MELTZER: No. And maybe I would also turn to
6 Mr. Vincent to talk about that because we do not think
7 out-of-state placement is the answer.

8 MR. YETTER: Before we get to Mr. Vincent, it is
9 increasing at least -- did the Panel find this in your
10 investigation that the State is sending more and more
11 children out at least over the last couple of years?

12 MS. MELTZER: Actually, we did not do a historical
13 analysis. We did ask for data on the out-of-state placement
14 of the children who are without placement and then we asked
15 for data on out-of-state placement for all children. The
16 data that we received -- and, in fact, I think our Report
17 might be slightly misleading -- it showed that there were
18 about 2,000 out-of-state placements.

19 When we looked more closely at the spreadsheet
20 that was provided to us, you know, some number of those out-
21 of-state placements are for kinship placements or for foster
22 care placements or are related to adoption. But there still
23 is a very sizable number of out-of-state placements to
24 residential treatment, psychiatric hospitals, kids in
25 juvenile detention out-of-state, which we think is

1 excessive.

2 Many states that have been engaged in reform have
3 made it a priority to bring back all the children back into
4 the State. You can't -- when filed as out-of-state, it's
5 very hard to do the kind of reunification work you want to
6 do. They are disconnected from their family, they're
7 disconnected from their communities and that's why you see
8 so much recycling of -- even in that list of out-of-state
9 placement episodes, kids -- there were kids who have
10 multiple episodes that show in the data we received for
11 those nine months.

12 THE COURT: Well, we'll talk about that more when
13 we review the Monitors' update and the OCOK and to Engage,
14 as well as DFPS and the rate they're putting children out-
15 of-state. You'll find that -- I don't know if you've -- I'm
16 sure you read it. You said you did, Ms. Meltzer, it is very
17 disturbing --

18 MS. MELTZER: Right.

19 THE COURT: -- that the SSCCs, for those that are
20 not familiar, are those agencies that have DFPS and HHSC.
21 DFPS has given over all their responsibilities in a certain
22 area to find placements and to place children in that
23 particular geographic area in Texas and they are quite
24 (glitch in the audio) placements.

25 It turns out about that HHSCs are sending children

1 out-of-state at twice the rate that DFPS is or approximately
2 and that is a huge concern for all of us.

3 MS. MELTZER: Right.

4 THE COURT: As soon as we started cracking down --
5 not me but with the heightened monitoring, the Department,
6 the State has determined -- not me, but the State has
7 determined which of these placements are unsafe and closed
8 them down. Then the HHSCs -- there seems to be a
9 correlation -- began shuttling children out-of-state.

10 Now we will find in a Report for the children who
11 were placed without -- in unlicensed care, that those
12 placements are very suspect in some out-of-state placements
13 that are on watch lists around the country as dangerous for
14 placement of children and on certain types of probation and
15 what have you. It's (glitch in the audio).

16 MS. MELTZER: Right. I mean, the other thing to
17 really understand is these out-of-state placements cost a
18 lot of money. The State -- I think the data that was
19 provided to us, the average cost of these out-of-state
20 placements is \$44,000 a year per child, you know. And when
21 we talk about redirecting resources to services in the
22 community to support families, that's one of the ways you
23 can get the funds you need to redirect the resources by
24 limiting these really expensive, not helpful and frequently
25 very dangerous out-of-state placements.

1 MR. YETTER: Your Honor, let me pick up on that
2 last point that Ms. Meltzer said.

3 THE COURT: Go ahead.

4 MR. YETTER: Three million dollars, the State has
5 spent \$3 million, according to the Expert Panel Report, in
6 the first 10 months of 2021 on out-of-state placements,
7 \$2.9 million. That's on page 10. Excuse me for
8 interrupting.

9 MS. MELTZER: No. That's the data that was
10 provided to us by the State and those are for the
11 out-of-state placements for the children in this -- children
12 without placement.

13 MR. YETTER: But that's just a part of -- that's
14 just some of the funds.

15 MS. MELTZER: Right.

16 MR. YETTER: Mr. Vincent, Ms. Meltzer suggested
17 that you would have some helpful insights on this for us.

18 MR. VINCENT: Yeah. One particular experience I
19 had seems relevant to the challenge the State's facing now.
20 A number of years ago our organization was helping the child
21 welfare and children's mental health system in Arizona,
22 which was implementing a class action settlement in their
23 mental health system primarily, and they had a large number
24 of kids placed out-of-state and so they, on their own,
25 initiated what they called the "300 Kids Project." And they

1 made a commitment to -- in a short amount of time to do
2 intensive work to bring 300 kids back to Arizona.

3 And what they did was and what our role was is to
4 train their case managers to use intensive child and family
5 team meetings, not just a single meeting, but a process of
6 meetings with the families of those kids out-of-state with
7 the kids with existing and potential providers craft
8 individualized plans to get them back into the State, not in
9 congregate care -- although some of them did go to
10 congregate -- high-end congregate placements, but back in
11 family-based settings as close to their home as possible.
12 And you know, over a period of a number of months or a year,
13 the Department was successful in doing that.

14 All those kids were Medicaid eligible. The
15 Department also contributed some of its own funds for things
16 that weren't claimable against Medicaid. And they -- not
17 only did they succeed with those kids, but the process
18 produced high-quality case managers who were able to use
19 those techniques to keep kids from ever going out-of-state
20 in the first place.

21 And you know, I've seen that work on a different
22 scale of different populations. I think all of us have, the
23 three of us have, on numerous occasions and what strikes us
24 is that might be one strategy the Department might
25 undertake.

1 I think we don't quite know enough to be real
2 concrete about it yet, but that's one example that occurred
3 to me while Judy was speaking.

4 MS. STANLEY: And, Your Honor, if I might add that
5 there are a number of states that have focused in on the
6 population of children who have been placed out-of-state and
7 have been successful in bringing them back and, as Paul
8 said, bringing them back to family-based settings.

9 And I think this is one area where Texas doesn't
10 need to start from scratch. There are a lot of ideas that
11 with some external consultation, they can connect with other
12 states to really learn what has worked and apply that to
13 their issues.

14 THE COURT: Ms. Masters, can you come up with a
15 plan to get those children back in this State?

16 MS. MASTERS: Yes, Your Honor.

17 THE COURT: How much time would you need, 90 days,
18 60 days?

19 MS. MASTERS: I mean, it would be nice to have
20 90 days. I would hope not to take 90 days.

21 THE COURT: Okay. Let's do 90 days then, that
22 you're committed to doing that within 90 days.

23 And speaking of that, you also need to figure out
24 if you want to accept the recommendation of the Panel to do
25 a DFPS community liaison to the four regions that have the

1 highest number of children without placements in licensed
2 care to start building community capacity to prevent
3 placements in unlicensed care and get them out of
4 congregate, make sure they don't go back into congregate
5 care.

6 Do you think you could do that also with a
7 community liaison?

8 MS. MASTERS: That is something I'm looking at to
9 see whether or not I can do that, as well as some others
10 with our -- with my existing resources.

11 THE COURT: Is that a problem with your resources?

12 MS. MASTERS: I haven't figured that out yet,
13 Your Honor.

14 THE COURT: Okay. Well, can you let me know
15 within -- let the Monitors know within 30 days whether or
16 not it's possible to have a liaison to do this?

17 MS. MASTERS: Yes, Your Honor.

18 THE COURT: Okay. Go ahead, Mr. Yetter.

19 MR. YETTER: I had another one, Your Honor, I
20 wanted to ask Ms. Meltzer about and the Panel, and that is
21 the strong suggestion in the Expert Panel Report that the
22 State recruit or secure providers with the expertise of
23 dealing with the significant needs of these children in
24 unlicensed placements. And you -- the Report mentions that
25 there are -- that in other states, they have developed

1 targeted requests for proposal to establish high-quality
2 qualified residential treatment programs.

3 And could you explain a little bit more of how
4 that works and how the State of -- the agencies here in
5 Texas could find and retain the services of providers that
6 would help this and (glitch in the audio) --

7 MS. MELTZER: Fine. So I'll start and then I'm
8 going to turn to Ann to finish that, but what my experience
9 is with states working on these problems is that they look
10 at the needs of the children that they're trying to serve.
11 And, for example, they use their data to identify, you know,
12 is there a problem placing children on the autistic
13 spectrum. You know, do we have a problem? How many -- what
14 do we need to do for sexually reactive children? What do we
15 need to do with -- the different kind of treatment needs
16 that children have?

17 And once they determine that from looking at their
18 data, they will prepare an RFD that they will solicit
19 specific providers to provide those services with defined
20 treatment modalities, hopefully evidenced-based treatment
21 modalities, resource sufficiently to hire the staff with the
22 skills to meet the treatment needs of those children.

23 We did not have the time to really fully
24 understand Texas' contracting processes, but our initial --

25 THE COURT: I don't think anybody -- I don't think

1 anybody understands it.

2 MS. MELTZER: Okay.

3 THE COURT: It may take several years to figure
4 that one out.

5 MS. MELTZER: Right. Oh, we didn't, I'll tell you
6 that.

7 But we did not think that that was the way
8 services were being procured, right, that there is like a
9 request for, you know, more GROs. And I think I'm
10 forgetting the title of the open enrollment for whatever.
11 And we think that has to be changed, that the State has to
12 use their data to understand what their specific needs are
13 and then procure providers who can demonstrate that they
14 have experience meeting those needs. They're going to staff
15 these programs, you know, to meet those needs and that they
16 aren't going to be held accountable for the treatment
17 services that the children need. And there are lots of
18 examples, I think, out there of states that try to procure
19 services in that way.

20 Ann, can I turn to you to expand on that?

21 MS. STANLEY: Yes. I think it's important to
22 recognize that the State is working on the Foster Care Rate
23 Modernization Project. And this project appears to be a
24 time and a place where DFPS and HHSC are working together
25 really well to -- and it has the potential to really address

1 some of the issues that were brought up in our Report.

2 So it has the potential to use data and they're
3 using Cann's data to look at what services and supports are
4 really needed and then to really provide the right level of
5 reimbursement for those.

6 But this project is multi-year. It's going to
7 take years for it to come to implementation. And one of our
8 suggestions is for HHSC and DFPS to, as they're working
9 through this process and really creating the placement and
10 service system that they want in Texas, to start applying
11 what they've learned to the current system and not wait
12 until 2023-2024 for the completion and the approval of this
13 project.

14 MR. VINCENT: In a related matter, sort of related
15 to what Judy was speaking of, we were interviewing the
16 director of very high-quality residential and community and
17 home-based service agency who certainly seemed to share the
18 principles we were recommending the Department adopt and so
19 just out of curiosity, we asked in relation to the children
20 placed out-of-state, but it could apply to kids in-State as
21 well, if the Departments ask you what it would take for his
22 agency to create the ability to bring those kids home, pay
23 that organization to reduce the number of kids in out-of-
24 state care? And his answer was, "No. If all they want --
25 all they want is for me to get them back within the State

1 borders, I wouldn't be interested."

2 If that came with the resources to support them
3 once they got back with intensive home and community-based
4 supports, I think we might be really interested in that.

5 And so, you know, our thinking was: There are
6 probably numerous agencies that you respect and that produce
7 high-quality care that with the right incentives could begin
8 the process, respond to these high-need children while
9 you're waiting for a more systemic approach with the rate
10 analysis process.

11 THE COURT: Ms. Masters, do you understand that?
12 Ms. Young?

13 MS. MASTERS: Yes, Your Honor.

14 THE COURT: I mean, there are providers out there,
15 as we've been saying for years, that provide quality
16 services for these children that no one has looked at. This
17 seems to be kind of a political thing about what providers
18 to go with, what lobbyists to pay attention to, which is
19 why, Panel Members, you may not know that before 2014, the
20 trial actually, the State of Texas in the previous 10 years
21 had only closed one GRA [sic] and that's when I think that
22 there was more than one death of a child -- one GRO. That
23 was it.

24 So that's why people are so distressed in the
25 provider network with all of these congregate care places

1 being closed because of safety reasons now that the
2 standards had been enumerated clearly.

3 So as far as I know, DFPS and HHSC have never --
4 in spite of the -- actually they at one point asked the
5 Monitors for recommendations and they got them. The
6 providers that did not have a history of probation and child
7 restraint and physical and emotional abuse of these
8 children, they are out there, as you're saying, Mr. Vincent.
9 And Texas has never, to my knowledge, explored this option.

10 Ms. Masters and Ms. Young, can you all do that
11 forthwith?

12 MS. MASTERS: Yes, Your Honor. I don't think
13 we've left any stone unturned. A lot of those services that
14 they need to provide cost money and that's a lot of the
15 issue. It's not about -- I'm not aware of any politics that
16 keep us from working with anyone.

17 THE COURT: Well, you're talking \$44,000 --
18 \$40,000-something a year per child to keep them out-of-
19 state. You were paying that incredible place.

20 Where was that, Ms. Fowler, that you went to look
21 for the 13-year-old that had been put in juvenile detention
22 that the police kept -- told you that they were called out
23 all the time?

24 MS. FOWLER: Devereux.

25 THE COURT: Devereux. The Devereux, was it

1 Liberty City or --

2 MS. FOWLER: No, it was in League City.

3 THE COURT: League City.

4 MS. FOWLER: But that was actually -- I don't
5 believe that was the DFPS placement. I believe she was
6 placed by an SSCC.

7 THE COURT: Right. It was placed -- but still a
8 DFPS placement because they're in charge of these children.
9 They are the parents of these children, which we'll get to
10 another comment later. But they were paying \$800-and-
11 something a day, weren't they for the Devereux?

12 MS. FOWLER: No. It was 400 -- I think it was
13 \$400-some-odd a day. It is -- which is about -- that's the
14 top of the scale for --

15 THE COURT: But to have these children be
16 arrested, physically abused and sexually molested.

17 So surely as we know, Ms. Masters, and you may not
18 know this because you're relatively new, but the
19 constitutional rights that have to be protected of these
20 children are not driven by monetary factors. Money is not
21 an issue for these factors. You must comply with safe
22 placements, period.

23 I'm going to have to start doing contempt in the
24 next -- I'm going to do it in the next four months, if we
25 don't get some response here, and that's going to be real

1 money.

2 And talk about money you're using -- you're
3 wasting \$44,000 over the next two years for failing to bring
4 these GROs into compliance with federal regulations to get
5 that money and that has to be because of your providers.
6 They don't want to do it. Not you, but the providers. And
7 the money that you're throwing away is just stunning. Out-
8 of-State placements, in-State placement for these children
9 that are just ghastly, \$4-500 a day for this.

10 Now that you cannot -- Mr. Vincent, do you know of
11 any of these places that you're talking about that cost more
12 than \$40 a day?

13 MR. VINCENT: You mean the out-of-state
14 placements? No.

15 THE COURT: No, I'm talking about the ones that
16 you're recommending that might come to Texas under the
17 appropriate circumstances.

18 MR. VINCENT: Honestly, I don't know, Your Honor.

19 THE COURT: Okay. So, Ms. Masters, I'm not going
20 to be listening any longer to your complaints about money.
21 The legislature throws you all money. Anytime you ask for
22 it, you get it. And where it goes, we're just now finding
23 out and it's not good, so please do not come back anymore
24 with "It costs too much money to give these children their
25 constitutional safeguards." You cannot do that anymore.

1 Do you understand, Ms. Masters?

2 MS. MASTERS: I understand, Your Honor. It wasn't
3 meant to be a complaint or to keep me from doing what needs
4 to be done.

5 THE COURT: Okay. Explore that option and within
6 90 days, report to the Monitors what you have found on a
7 cost analysis and how practical it is to have decent
8 placements come into the State of Texas for these high-needs
9 children?

10 Will you do that?

11 MS. MASTERS: Yes, Your Honor.

12 THE COURT: Ms. Young, will you join in that?

13 MS. YOUNG: Yes, Your Honor. We will do
14 everything we can to help.

15 THE COURT: Thank you. I'm not sure that that's
16 particularly your area, but certainly you'll need to license
17 these places.

18 MS. YOUNG: Yes, Your Honor.

19 THE COURT: Okay. Mr. Yetter, I'm moving along
20 here.

21 MR. YETTER: Yes. I had just really one more
22 question from the Expert Panel, if I could, Your Honor?

23 THE COURT: Please.

24 MR. YETTER: And that, Ms. Meltzer, is really a
25 step back sort of question having --

1 THE COURT: I finally got her name down so we're
2 not going to get rid of her yet, are we?

3 MR. YETTER: Your Honor, I'm -- there -- I'm happy
4 to go through each one of these recommendations as much as
5 the Court needs.

6 THE COURT: You do it. Thanks.

7 MR. YETTER: Okay. But the big picture point that
8 I wanted, Ms. Meltzer, you had a sense of what you were
9 getting into. Sixty days later you've now intensively
10 analyzed the system, assessed the system.

11 Is this -- for a child welfare system of a wealthy
12 State like Texas, is it just business as usual to have
13 hundreds of their foster children placed in unlicensed --
14 and the evidence shows -- unsafe placements? Is that just
15 business as usual or how concerned were you once you learned
16 what was going on?

17 MS. MELTZER: No. I think it's fair to say as we
18 dug into this, we were concerned when we got involved and in
19 my case it was from reading press reports. And as we began
20 to examine it further, our concerns were heightened.

21 It's fair to say that right now with COVID -- and
22 I think the impact of COVID is that a lot of states are
23 struggling to have the services that they have in place be
24 adequately staffed, right, that more and more states are
25 experiencing this problem in a very small way like 10 kids

1 that they cannot -- you know, that they're having difficulty
2 placing and as they're addressing it.

3 But I know Texas is a big State, but the magnitude
4 of the problem here, I think, give us pause as the Panel
5 experts and the fact that by kind of institutionalizing it
6 as an approach to handling this problem would
7 (indiscernible) use by setting up these unlicensed
8 facilities across the State and staffing them with CPS
9 workers. I think we found that a little -- very unusual and
10 a little startling.

11 THE COURT: It's so dangerous, not just for the
12 kids, but for the caseworkers who have no -- and they're
13 required to do this by the Commissioner. They're required
14 to put in so much time every week staffing these unlicensed
15 placements for children because there's no one else, which
16 is why children are wandering out of hotel rooms, having sex
17 with the staff, getting into fights because they're high-
18 needs children.

19 MS. MELTZER: Right.

20 THE COURT: And we'll get more of that later, but,
21 I mean, it's really stunning.

22 Speaking of that, Ms. Masters, do you recognize
23 that COVID is dangerous for these -- for the children in
24 your care, these PMC children?

25 MS. MASTERS: I do.

1 THE COURT: And for the staff that works with
2 them?

3 MS. MASTERS: I do.

4 THE COURT: You remember that I -- I guess you
5 know that I asked the Monitors to find out from you what
6 percentage of the children that were eligible for
7 vaccinations in your care, as you are the parents of these
8 children now, the State of Texas, for my PMC children that I
9 -- they're not mine but, I mean, I consider them near and
10 dear to my heart I will tell you. You're the parents now,
11 the State of Texas, for these PMC children, almost 10,000 in
12 the State of Texas.

13 Vaccines have been available for children at the
14 high risk since January of -- at least, I guess, 15 to 18
15 since January of '21, 12 to 15-year-olds since May for any
16 -- 12 and above from May for all the children. And I got
17 the statistics back from you all that 75.3 percent of the
18 children in your care in the State of Texas have no
19 vaccination for COVID.

20 And apparently -- I can't find the actual data,
21 but apparently in the entire group of Texas children that
22 are eligible for vaccinations, 5 through 17, it's either
23 44 or 51 percent of all children in Texas in that age group
24 that are eligible are vaccinated.

25 What is your position exactly on not getting these

1 children vaccinated?

2 MS. MASTERS: So I agree with you, Your Honor, it
3 is important. I believe the children have the ability to
4 say they don't want the vaccine.

5 THE COURT: Five-year-olds? Five-year-olds, I'm
6 sorry?

7 MS. MASTERS: Not five-year-olds. And I can't say
8 that I know all the specifics. I think that Deneen Dryder
9 or Erica Banuelos would be able to speak better to that.

10 THE COURT: Then let me hear from them.

11 (No audible response.)

12 THE COURT: A hush fell over the room.

13 MR. NEUDORFER: Your Honor, we will have
14 Ms. Dryder here in just a moment.

15 MR. YETTER: Your Honor, I might suggest that it
16 would be a good time for a break. I think we've been going
17 about 90 minutes, if the Court's okay with that.

18 THE COURT: Well, if you insist, Mr. Yetter.
19 Everybody else okay with that?

20 (No verbal response.)

21 THE COURT: I guess the Panel can stay as long as
22 they can stay on this because I'm anxious for them to hear
23 the Monitors' Third Report review, as well as discussing the
24 issues and the children without licensed placement.

25 MR. VINCENT: We blocked out the day, Your Honor.

1 MR. YETTER: Your Honor, you're on mute.

2 (No audible response.)

3 MS. MELTZER: I guess she's on break. Okay.

4 MR. YETTER: I think we're on break.

5 MS. MELTZER: How long are breaks typically?

6 MR. YETTER: It would be about -- I'd say

7 10 minutes.

8 MS. MELTZER: Okay, great. Thank you.

9 THE COURT: Okay. Let's do 10 -- let's do
10 15 minutes, okay?

11 MR. YETTER: Thank you, Your Honor.

12 THE COURT: Okay. Sorry.

13 MS. MELTZER: That's okay.

14 (Recess taken from 10:28 a.m. to 10:40 a.m.)

15 AFTER RECESS

16 (Audio begins abruptly.)

17 MS. DRYER: -- percent to have been fully
18 vaccinated.

19 THE COURT: Now why is that when the State of
20 Texas -- depending on whose records you use 44 to 51
21 percent, what efforts are you making to get these children
22 vaccinated?

23 MS. DRYER: We send out guidance to the field
24 that --

25 THE COURT: Let me tell you one more time. You

1 all are the parents of these children. You must act like
2 responsible parents. These children, so many of them, at
3 BMC and otherwise are high-risk children, they've got
4 asthma, they've got neurological problems, they've got
5 physical problems. They're high-risk COVID patient
6 possibles.

7 So why have you not physically made sure that
8 these kids are vaccinated? It's been available since last
9 May and this is January of 2022.

10 MS. DRYER: We agree with you, Judge, and have
11 very much encouraged and stated to the caseworkers the
12 importance to get -- they get vaccinated.

13 THE COURT: I'm sorry, that doesn't fly.

14 Why are they not vaccinated? And I'm not issuing
15 mandates. I don't want to go there. I'm just talking about
16 these are mostly high-risk children.

17 Why are they not vaccinated?

18 MS. DRYER: We continue to work to increase that
19 number.

20 THE COURT: How?

21 MS. DRYER: We send out --

22 THE COURT: You're lagging behind. The whole
23 State of Texas was not a high-vax State. Your children are
24 last in the category of vaccinated, and you all are the
25 parents. I tell you what, in other states, you might have

1 these children removed from your care because of this
2 failure to safely protect these children.

3 MR. NEUDORFER: Your Honor, perhaps
4 Erica Banuelos, who is also with us, is -- can perhaps speak
5 to the details regarding vaccination in a little more
6 detail, if you'd like to hear from her?

7 THE COURT: One more thing before I forget because
8 the older one gets, one has to keep track of these things.

9 Ms. Masters, what providers have you contacted to
10 see exactly the per diem cost of really good care that
11 Mr. Vincent was talking about and what is their per diem?

12 MR. NEUDORFER: Your Honor, if you'll bear with us
13 just a moment, we'll ask Ms. Masters to rejoin us here.

14 THE COURT: Oh, good.

15 (Pause in the proceedings.)

16 THE COURT: Ms. Masters, let me repeat the
17 question.

18 What providers of these -- of the providers
19 Mr. Vincent is talking about that provide quality care in
20 congregate settings that's short term, which ones have you
21 contacted and what is their daily rate?

22 MS. MASTERS: So I would have to check with my
23 contract staff, Your Honor. I don't have that information
24 in front of me.

25 THE COURT: Okay. Well, who is that and when can

1 you get it?

2 MS. MASTERS: That would be Bill -- I forget is
3 name last -- Bill Walsh and I could step out and try to
4 reach him now.

5 THE COURT: Let's do that.

6 Okay. Now, Ms. Banuelos, is that who we're
7 talking to now?

8 MR. NEUDORFER: Yes.

9 MS. BANUELOS: Good morning.

10 THE COURT: Tell me about the vaccinations.

11 MS. BANUELOS: Your Honor, I agree with you that
12 this is a really important thing for our youth and some of
13 the things that we have been doing at the field level is not
14 only have we provided guidance, but every -- you know, when
15 I talk to the regional directors who are in charge of the
16 regions, they are talking to their staff about the
17 importance of vaccination. We have provided information
18 about why it's important. We provided information to our
19 youth who have refused to be vaccinated.

20 THE COURT: What percent? Well, how many youths
21 have refused it and why is it not in their records?

22 MS. BANUELOS: I don't have the exact percentage
23 of the youth that have --

24 THE COURT: What youth are you talking about, what
25 age group are refusing?

1 MS. BANUELOS: The older youth typically are
2 the --

3 THE COURT: What age groups?

4 MS. BANUELOS: I would say anywhere from 13 up
5 will sometimes refuse.

6 THE COURT: You allow 13 and 14-year-olds to
7 refuse their vaccinations?

8 MS. BANUELOS: Your Honor, we try to talk them
9 into coming --

10 THE COURT: This is a "Yes" or "No."
11 You allow that?

12 MS. BANUELOS: I would say that if --

13 THE COURT: Apparently yes.

14 MS. BANUELOS: Yes, we do.

15 THE COURT: Okay. And what guidance do you get to
16 allow your children to be unvaccinated? Where are you
17 getting that guidance from?

18 MS. BANUELOS: Your Honor, we cannot put a child
19 in the car if they don't want to get in the car with us. I
20 know that, you know, foster parents try to talk to our kids
21 about getting vaccinated.

22 THE COURT: Okay. Where is this in the records?
23 Where is this in their medical records and their health
24 passports anywhere that children are refusing their
25 vaccinations?

1 MS. BANUELOS: Workers will typically document
2 that in the narrative where they are asking the youth about
3 vaccination and trying to educate them to get them to go
4 with them to get vaccinated.

5 THE COURT: Okay. How about you do a word search
6 of those records right now and tell me exactly how many
7 children have refused, first.

8 Second, is it possible that your caseworkers are
9 so overwhelmed with taking care of children without licensed
10 placements that they're unable to do this job?

11 MS. BANUELOS: We have offered them resources to
12 try to help them. Yes, you're correct, Your Honor, it is
13 overwhelming to do child watch without placement and also do
14 other tasks, but I know that other regional level people are
15 working and trying to support wherever we can to assure that
16 things still get done. And vaccination has been one
17 those --

18 THE COURT: Okay. Do you have any -- what
19 guidance are you using to say that -- you know, your people
20 have no problem drugging these children with psychotropic
21 drugs or restraining them and hauling them out with the
22 police.

23 Why is it you can't get them vaccinated? I'm not
24 understanding this at all. This is shameful. So I want --
25 by Friday at noon, I want you to file a list of -- with the

1 Monitors of every child who's refused a vaccination, their
2 age and their placement.

3 Can you do that?

4 MS. BANUELOS: Yes, Your Honor.

5 MR. NEUDORFER: Your Honor, may I ask a few
6 questions on this issue?

7 THE COURT: Yes. I'm not exactly finished. I
8 want to know where --

9 MR. NEUDORFER: Yes, Your Honor.

10 THE COURT: -- they're getting -- where you're
11 getting your guidance.

12 Do you have some specific public health guidance
13 that 13 and 14-year-olds can refuse vaccination when told
14 they have to do it by their parents?

15 MS. BANUELOS: Your Honor, I think when I'm saying
16 that they refuse is I'm saying that we are not able to put
17 them in our car and take them to go get vaccinated.

18 THE COURT: So you're going to give me a list of
19 those children by Friday at noon to the Monitors.

20 MS. BANUELOS: Your Honor, I am going to get you
21 the list of those youths by Friday.

22 THE COURT: Okay. Do you know that there are
23 probably ways you can bring those vaccinations to the
24 children in their placements? Have you tried that?

25 MS. BANUELOS: Your Honor, we have and --

1 THE COURT: And how did that work?

2 MS. BANUELOS: Some still refuse. Some got it and
3 some refused.

4 THE COURT: Okay. Can you give me a list exactly
5 of the providers that you have contracted to bring the
6 vaccines to the congregate care places and other places to
7 get these children vaccinated?

8 MS. BANUELOS: We got them to go up to our offices
9 where we had our children placed and I could see if they've
10 been to any other congregated places and I can send that --

11 THE COURT: So you're talking the unlicensed
12 places, you had them come to the caseworkers' offices?

13 MS. BANUELOS: Yes, Your Honor, we did.

14 THE COURT: And, Mr. Carson, what is your problem
15 with getting the children in your care vaccinated?

16 MR. CARSON: I'm not aware of a problem. We offer
17 vaccines, but we're not aware that they can be required.

18 THE COURT: I'm not requiring them, but what do
19 you use to determine whether they should have them or not?
20 Surely you know these high-risk children in your care need
21 to be vaccinated.

22 MR. CARSON: Yes, we know that. We've provided
23 information to them. We've had Zoom calls. We've had
24 access to medical professionals. We've tried to help them
25 understand the importance of them being vaccinated.

1 THE COURT: Who have you -- what about the five-
2 year-olds in your care, are they vaccinated?

3 MR. CARSON: I don't know.

4 THE COURT: Who would know, since you're in local
5 parentis to all these children in your care?

6 MR. CARSON: I'd have to check with our placement
7 folks and see if we --

8 THE COURT: Do you give them MMR vaccines?

9 MR. CARSON: Yes, we do.

10 THE COURT: Do you make sure they have tetanus
11 shots?

12 MR. CARSON: I believe we do. Do we make -- I'm
13 checking. I think they have to have those to get into
14 schools, so yes.

15 THE COURT: And so what is -- do you have a
16 political objection to the vaccines, or just out of
17 curiosity?

18 MR. CARSON: I do not. I'm fully vaccinated and
19 boosted.

20 THE COURT: But your children are not.

21 MR. CARSON: Some are and some aren't.

22 THE COURT: Well, apparently we know that less
23 than 25 percent are and of those 25 percent actually, the
24 Monitors were unable to verify a huge portion of those
25 25 percent actually were vaccinated. We just -- they just

1 accepted the State's numbers for that.

2 Is that right, Mr. Ryan?

3 MR. RYAN: Yes, Your Honor, that's correct. We
4 were not able to validate that all of the children --

5 THE COURT: The 25 percent?

6 MR. RYAN: Yes. We were -- in a sample of 65, we
7 were unable to confirm that 15 of those children had been
8 vaccinated.

9 THE COURT: All right. So -- Mr. Yetter?

10 MR. YETTER: Yes, Your Honor, briefly.

11 Ms. Banuelos, are you the DFPS official that is in
12 charge of the whole vaccination issue?

13 MS. BANUELOS: I am the director of field. I'm
14 responsible for the field work.

15 MR. YETTER: The field work. Okay.

16 So part of your responsibility is keeping the
17 children healthy and safe, right, medically?

18 MS. BANUELOS: That is correct.

19 MR. YETTER: And I'm sure that part of the work
20 that you do involves knowing when children get their
21 childhood vaccination, whooping cough, polio, diphtheria.

22 MS. BANUELOS: Yes. We have a health passport
23 that we use.

24 MR. YETTER: And they don't get a choice about
25 whether they get those vaccinations, do they?

1 MS. BANUELOS: Some are mandatory for school and
2 they have to get them in order to be in school.

3 MR. YETTER: And are there any other -- and you
4 know that the --

5 THE COURT: Mr. Yetter, let me just -- are they
6 mandatory to be your placements, those vaccines that
7 Mr. Yetter just talked about? Take away the schools.
8 Aren't they mandatory to be in placement for the protection
9 of the other children and your staff?

10 MS. BANUELOS: I'm not -- I don't have the list of
11 all the ones that if any placement is mandating certain
12 particular vaccinations.

13 THE COURT: Well, what about DFPS, do they require
14 vaccinations? I thought you were supposed to, in 24 hours,
15 when a child comes into care get their medical records.

16 MS. BANUELOS: We do, we have them assessed at
17 that time and if they are missing some vaccinations, we will
18 make sure that they get updated with vaccinations.

19 THE COURT: Everything but COVID. Okay.

20 MR. YETTER: And is there something written down
21 that says vaccinations you can -- you're going to provide
22 for the health and safety of the foster children by giving
23 them all vaccinations except for COVID? Is there something
24 written down that says that?

25 MS. BANUELOS: No.

1 MR. YETTER: Do you have any written policy, as
2 the Government parent of these children, about whether and
3 how to keep them safe from the COVID vaccine with -- excuse
4 me, from the COVID virus with a vaccination? Do you have
5 any written policy on that?

6 MS. BANUELOS: Yes.

7 MR. YETTER: And what does it say? Does it say
8 children get the choice of whether they're going to be kept
9 safe from the virus or not?

10 MS. BANUELOS: Doesn't say that they have a
11 choice.

12 THE COURT: And you've got nine placements -- nine
13 GROs that are under COVID watch at this time, right?

14 MS. BANUELOS: I would have to verify that,
15 Your Honor.

16 THE COURT: Well, that's what you told the
17 Monitors as of early January and you told the Monitors that
18 you've had, what, 55-65 children hospitalized with COVID?

19 MS. BANUELOS: I believe that's right, from the
20 beginning of COVID. We don't have any right now as of today
21 in the hospital.

22 MR. YETTER: And you told the Judge that evidently
23 the State is giving 13 and 14-year-olds the right to choose
24 whether to get a vaccination to keep them healthy and free
25 of the virus; is that what you told the Judge?

1 MS. BANUELOS: What I was trying to -- and maybe I
2 didn't explain it correctly, Mr. Yetter, is that when we
3 talk to the youth about the vaccination and about taking
4 them to get vaccinated, some of the youths refused to get in
5 the car to go get the vaccination. Some of the youths say
6 they don't want it. And as you know, if we take them in to
7 get vaccinated, we cannot restrain a child down to put the
8 vaccination in their arm.

9 So we do our best to talk to the child to try to
10 make them understand why this is important to their safety
11 and their health and how it could benefit them. And so we
12 are constantly trying to talk to them about why they need to
13 get it because we feel it's important for their safety just
14 like it's important for my child, too.

15 MR. YETTER: Okay. And is that policy --

16 THE COURT: Is your child vaccinated?

17 MR. YETTER: Yes, that's right.

18 THE COURT: Pardon?

19 MS. BANUELOS: Yes, my child is vaccinated.

20 THE COURT: How old is your child?

21 MS. BANUELOS: My child -- I have a 10-year-old
22 and I have a -- I have an 11-year-old and I have a 13-year-
23 old.

24 MR. YETTER: Did you give them --

25 THE COURT: And did you give them the option of

1 refusal?

2 MS. BANUELOS: I had a conversation with them
3 about what it was and I took them and they allowed the
4 pharmacist to put the vaccination in their arm.

5 THE COURT: And what would you have done if they
6 said, "No"?

7 MS. BANUELOS: I would have continued to have a
8 conversation with them and I would have taken them to where
9 I get them vaccinated and hope that they would allow the
10 technician to put a vaccination in their arm because if not,
11 the technician would not put the vaccination in their arm, I
12 would assume, if the child is refusing.

13 MR. YETTER: Come on. Ms. Banuelos, you're the
14 parent of your children. You keep them safe by your choice.
15 They're not old enough to choose, are they, when they're 11
16 and 13-years-old.

17 MS. BANUELOS: That's correct. I spoke to them
18 and I took them in to get the vaccination. They got in the
19 car with me and we went and got the vaccinations.

20 MR. YETTER: And foster children that are 11 and
21 13 and 14-years-old are children. They're not old enough to
22 make that choice about their medical health, are they, about
23 whether to get a vaccine or not get a vaccine. They're just
24 children. You're their parent.

25 MS. BANUELOS: That is correct. And so we do our

1 best as the caseworkers, they do their best --

2 THE COURT: Okay. Mr. Yetter, that's -- we're not
3 going to get anywhere with this. This is just -- it's not
4 just negligence, it's --

5 MR. YETTER: It's just shocking, Your Honor,
6 frankly.

7 THE COURT: Mr. Vincent, Ms. Stanley, Ms. Meltzer,
8 are you all getting an idea of what we've been going through
9 for the past 11 years?

10 MR. VINCENT: Well, Your Honor, we learn more
11 every day about the path this system has been on.

12 THE COURT: Thank you.

13 It's not good and it just seems to be on a
14 downhill trajectory. My Orders have not made a difference.
15 The mindset is there.

16 And apparently we're not talking about --
17 apparently there's no indication about the vaccination might
18 be safe for the staff or the caseworkers. And you know
19 these nine facilities that are on COVID restrictions, the
20 caseworkers cannot come in person and you wonder -- anyway,
21 I think we've done all we can on that.

22 Mr. Yetter, everything that you think is important
23 in the Panel's Report, I want you to go item-by-item.

24 MR. YETTER: Will do.

25 THE COURT: Not every single thing, but the

1 important things and let's see. We can talk to the DFPS and
2 HHSC about these recommendations.

3 MR. YETTER: Will do, Your Honor. And I'd like
4 to, if I could, start with -- before we got to the
5 recommendations, Ms. Meltzer, the Panel Report has a summary
6 of trends and data that you saw, some of which I think are
7 -- all which are important and some of which I'd like to go
8 over with you. And this is on page 4 and -- starting on
9 page 4.

10 On page 5, you make -- the data that you saw you
11 summarize there. It appears that roughly 90 percent of the
12 children that are being placed in unlicensed places --
13 placements are teenagers.

14 Is that what that chart reflects?

15 MS. MELTZER: Yes, 13 to 17-year-olds. In
16 November, that was 91 percent of the children in unlicensed
17 placements.

18 MR. YETTER: And these children -- the next chart
19 reflects that 60 to 67 percent of these children are at
20 service levels of either specialized or intense, right?

21 MS. MELTZER: Yes, that's correct. Just to
22 clarify that these are based on data that were provided to
23 us by the State agencies.

24 MR. YETTER: Correct. You're just summarizing the
25 data that they have.

1 And what conclusions did you draw -- you, the
2 Panel, draw about whether the State is appropriately
3 tailoring the services that they give to these children in
4 unlicensed placements based on the fact that these are
5 teenagers and that they have very high service needs? What
6 is the significance of that from the Panel's perspective?

7 MS. MELTZER: Well, I think -- and I'll let others
8 on the Panel add. You know, the fact is it ties into the
9 recommendations we made about very tailored specific service
10 to meet the needs of youths with -- from high acuity needs
11 and when you're working with older youth, it makes it even
12 more important that you focus on the practice, that you have
13 staff who are skilled to engage these youths in thinking
14 about their futures and in developing of the plans and that
15 is an important skill of how you both talk to youths.

16 And by looking at the experiences of many of these
17 youths, you're having to deal with behaviors that are
18 reflections of the trauma that they experienced. So it
19 takes both empathy and skill not to blame these youths for
20 the situations (glitch in the audio) work with them. Let me
21 turn, I think, to Ms. Stanley on this.

22 MS. STANLEY: Your Honor, I'll speak briefly and
23 then I know we want to hear from Mr. Vincent, too.

24 You know, I think services and supports are really
25 key in individualized plans, but nothing -- nothing beats

1 having a family and a faith-supported permanent family can
2 do more for these children than any service and support.

3 And sometimes in systems, these older youths are
4 not getting to permanency with families, and sometimes we're
5 overlooking to possibility of them going back to their
6 biological family, who many times has undergone drastic
7 changes and is fully prepared to care for them at that time.

8 It takes work, it takes effort to do those
9 reconnections, but we've seen it happen. It is possible.
10 And when it does happen, when children are in permanent,
11 safe placements with families, that's where we see the real
12 healing begin with their trauma.

13 MR. YETTER: Mr. Vincent, did you want to add to
14 this?

15 MR. VINCENT: Yeah. In Texas and in a lot of
16 systems, the intensive services a lot of kids needs are tied
17 to a location, which means a child has to move to get higher
18 intensity. And there's an old saying that you want the
19 dollars to chase the kids, rather than kids chasing the
20 dollars.

21 And you know, I think that's contributed to the
22 problem here and why we think it's so important to both
23 create the right services and both -- and to have the
24 ability to tailor them, so children don't have to leave
25 perhaps their own families or a family-based placement that

1 they're happy in just to get more intense -- usually more
2 intense mental health services.

3 MR. YETTER: Ms. Meltzer --

4 MS. MELTZER: If I can just add one thing? It was
5 one of the reasons in our short-term recommendations where
6 we talk about the need to form clinical teams to work with
7 these older youth and their families and to bring them all
8 together to come up with a plan. We also said it's very
9 important that they have attached to those teams the ability
10 to access flexible resources. So you know, a pot of funds
11 that can be used flexibly to put in place both traditional
12 and nontraditional services that families or foster families
13 may need in order to support these kids safely and to
14 stabilize their condition.

15 MR. YETTER: Also, Your Honor, on a related issue
16 to this, these children with specialized and intense medical
17 holds, is there a connection, based on your 35 years in the
18 child welfare profession, is there a connection between a
19 State having a comprehensive and effective system for care
20 of children's mental health and keeping the children safe,
21 is there a connection between the two or can you just sever
22 the two and not worry about one and only focus on the other?

23 MS. MELTZER: Well, again, there's an absolute
24 connection, right? When these children come to the
25 attention of the child welfare agency, it is because

1 something's happened in their family that the agency decides
2 that have to intervene, you know, to protect them. And then
3 if they're put in placements where they are either not
4 protected or they're not supported, their conditions just --
5 it just exacerbates the condition.

6 And then every time a child is moved to a
7 different placement, even if the intent of that move is to
8 provide, you know, more services, it makes the situation
9 worse. So by the time you get to 13-year-olds who may have
10 experienced 10-12 placements over their life, you can -- you
11 know, it's not -- you don't need to be a clinical specialist
12 to understand why their behaviors are the way they are.
13 They're not trusting. It's very difficult for them to form
14 relationships. And if you ask youth almost uniformly, they
15 say, "I want to be with my family" or a family of some kind.
16 So, yeah, absolutely connected.

17 MR. YETTER: One of the findings that the Panel
18 has in its Report is that there is a revolving door for
19 these children that are being placed in unlicensed
20 placements by the State, which you call "recidivism."

21 Do you see that as being -- endangering the safety
22 of the children and harming the physical or mental wellbeing
23 of the children?

24 MS. MELTZER: Absolutely. Every time a child
25 gets, you know, moved to a psychiatric placement or to a

1 group home and then they -- you know, it fails for some
2 reason and then they're moved somewhere else and then they
3 try somewhere else, it just contributes to their trauma and
4 their -- you know, their problems. And then you get -- I'm
5 going to turn to Paul and ask him to talk about that.

6 You know, one of the things we talked about was,
7 you know, people say that these children -- some of these
8 children in the facilities are refusing placement as if it's
9 a willful activity, but we believe it kind of reflects the
10 experiences they have and in some cases, you know, it's an
11 appropriate response to their situation.

12 Mr. Vincent, you want to expound on that a little?

13 MR. VINCENT: Yeah. This issue made me --
14 reminded me of a project Judy and I were both involved in
15 with kids who are long-stayers who had been in care for a
16 lengthy period of time in another State and it involved
17 intensive interviews with a group of that population of
18 children and in debriefing and writing our Report, the one
19 thing we were struck with is how powerless all these
20 children felt. They didn't have the power to decide where
21 they lived, with whom, when and if they saw their families,
22 what school they went to, what their daily schedule was
23 like. And a couple of the more articulate kids sort of said
24 that, you know, "I don't have the power of a normal teenager
25 to do routine things."

1 And you know, I think that's -- what you see from
2 that is the frustration and anger those kids feel in sort of
3 a generalized way and those are often the characteristics of
4 these children without placement, which is why we argue so
5 much about bringing kids into the decision-making process,
6 not just in a single meeting to decide where they're going
7 next, but you know, throughout their life in the system
8 whenever there are plans being made and changes considered,
9 you want the kid at the center of the conversation.

10 And one other thing I'll say about group care is
11 even if a kid is stable in a group home placement, there's
12 nothing stable about that environment. The kids there
13 through cycle through over and over. You have different
14 roommates all the time. The direct care staff often are
15 only there for a short time and they leave for other work.
16 And so stability in an environment like that is sort of an
17 illusion.

18 MR. YETTER: Mr. Vincent, is it your experience
19 over your many years in child welfare that extended stays
20 for children -- not just focused, you know, therapeutic
21 stays in specialized aggregate care facilities, but extended
22 stays in group facilities actually hurt the children more
23 than they help them?

24 MR. VINCENT: I think that when you reach a
25 certain point, they do. There are a small number of kids

1 who don't have high needs who, you know, after years of
2 moving around, might find a stability in a caring, small
3 facility and you know, would prefer just to stay there until
4 they age out of the system, but for the majority of the
5 kids, I think -- we all think it's harmful.

6 And if you ask children, they don't like group
7 care. There's not enough programming. There's a lot of
8 conflict. As I said before, there are not many choices.
9 They're far away from home. So what we see in the
10 population of kids without placement is how -- what the
11 natural reaction to that mistreatment is.

12 MR. YETTER: Based on your investigation,
13 Mr. Vincent, have the -- do you have an -- have you drawn an
14 opinion about whether it's -- the State of Texas' heavy
15 reliance on group care is healthy for these children?

16 MR. VINCENT: I do. I think -- I think that
17 creates -- if they're not in that status now, I think it
18 creates the category of children without placement.

19 THE COURT: You know, this -- I'm sure you all
20 have now read my original Order from 2015 that I found that
21 these children who come into care with basic -- in the basic
22 needs level age out at 18, out of resident treatment centers
23 under multiple psychotropic drugs, and they come in already
24 damaged and they're tremendously damaged. They go out even
25 more damaged of foster care because of this congregate care.

1 And we've had providers that didn't know where else to put
2 the children just they just put them in psychiatric
3 hospitals and it's just a revolving door.

4 These children without licensed placements have
5 gone through placements that have been under heightened
6 monitoring over and over again and have gone through
7 placements that were subsequently closed because they were
8 unsafe. I mean, these congregate care places, so many of
9 them are just so dangerous as it turns out, according to the
10 State and to the Monitors.

11 And there's one of the -- between July and -- I'm
12 going to the Monitors' Updated Children Without Placements
13 Program Report. Two hundred of the -- 161 children were
14 identified among 290 serious incident Reports related to
15 those children and they were involved in two more incidents
16 and three of the children with the -- they call it "SIR,"
17 Serious Incident Reports, one is a 14-year-old PMC youth who
18 entered foster care in 2010 and has had 42 placements --
19 42 placements, including in an RTC that was -- had its
20 licensed revoked, two that have been -- two that were
21 revoked and opened under a different name and that child is
22 currently -- and placements included at least 10 psychiatric
23 hospitalizations, four periods without placements -- without
24 licensed placement in 2021.

25 That child is currently in an RTC, Residential

1 Treatment Center, in Tennessee, significant mental and
2 behavioral needs, four psychotropic medicines. One of the
3 children with serious incident Reports that's not in a
4 licensed placement.

5 Sixteen-year-old PMC child first entered care in
6 2006, has 49 placements -- 49 placements. She made an
7 outcry that her older adopted brother and his friend
8 sexually abused her between the ages of seven and eight,
9 which was substantiated, that allegation. She's been in 15
10 psychiatric hospitals, 13 periods without a licensed
11 placement.

12 During three of those placement periods without
13 licensed, she was in Family Tapestry, (indiscernible), which
14 was -- subsequently lost its license or gave up the license.
15 She was -- we're going to talk about these TEP placements.

16 I don't know if you ever heard of those,
17 Mr. Lawrence [sic], Ms. Meltzer and Ms. Stanley, but she was
18 in a TEP placement at Promise House, but was discharged
19 after assaulting a police officer and she was taken to
20 juvenile detention. That's how she was treated. And she
21 spent a night there before discharged to another unlicensed
22 placement. She has significant mental and behavioral health
23 needs and is on three psychotropic medicines.

24 D., another child that is a 17-year-old PMC child
25 who reentered foster care in 2018. Since reentering care,

1 that child has had 38 placements including at least six
2 psychiatric hospitalizations, eight periods without
3 placements in licensed care all in 2021. That child's
4 placement includes a residential treatment center that
5 closed after being placed under heightened monitoring.
6 Multiple placements in another RTC that was subsequently
7 placed under heightened monitoring. Multiple placements in
8 Hector Garza RTC, which was just an abomination really, and
9 that lost its license by the State. Multiple placements in
10 another RTC that was subsequently placed under heightened
11 monitoring.

12 Most recent placements includes an RTC that's been
13 given notice of a license revocation and a temporary TEP
14 placement in an emergency shelter. She spent one night --
15 that person spent one night in jail after he got into an
16 altercation with another youth at an unlicensed setting and
17 knocked the staff person to the ground when he was trying to
18 get to the other youth. D. is -- that person's diagnosed as
19 bipolar, prescribed medication, two other psychotropic drugs
20 for anxiety and mood disorder. That child is currently
21 without placement and will age out in this coming May.

22 Oddly enough, that child has expressed an interest
23 to no longer be in foster care and that on aging out, he
24 doesn't want any support from DFPS.

25 And I can go on and on and on with the same

1 statistics. Unbelievable. And all we hear from DFPS is
2 that these children are aggressive and need to be arrested,
3 or they need to be drugged, and if that doesn't make you
4 weep, not much will.

5 So, Ms. Masters, have you -- did you have a Report
6 back -- I'm going to circle back before I forget about the
7 contract issue with the qualified providers that
8 Mr. Lawrence [sic] was discussing?

9 MS. MASTERS: Bill is on the call.

10 THE COURT: Okay.

11 MR. WALSH: Good morning, Your Honor. This is
12 Bill Walsh with the Department of Family and Protective
13 Services.

14 THE COURT: And?

15 MR. WALSH: Could you repeat the question, please?

16 THE COURT: What providers -- I don't know if
17 you've been listening to the testimony, but Mr. Lawrence
18 [sic] says there are qualified providers that have very
19 high-quality care in residential treatment that should be
20 short term until a better placement is found, that are ready
21 and willing to come to Texas and help get children from --
22 back in the State from out-of-state, as long as they have an
23 ongoing relationship with the State.

24 So which of those facilities have you been in
25 contact with?

1 MR. WALSH: So, Your Honor, I have been listening
2 and I'm not familiar with which operations that were
3 referred.

4 THE COURT: Mr. Ryan, didn't you -- at the request
5 of Ms. Masters, which was not part of my doing because
6 that's not in my purview, didn't she ask you about some --
7 how to find qualified providers and you gave her a list of
8 people to call?

9 MR. RYAN: Your Honor, we identified a list of
10 states that had addressed this problem and put the State in
11 touch with those State leaders, so New Jersey and to
12 Oklahoma among others.

13 THE COURT: Okay. So the bottom line, Mr. Walsh,
14 you have not contacted any providers from another State that
15 have been rated highly in qualified care that would fall
16 under the auspices by the way of the Family -- I've
17 forgotten the name of it, Ms. Meltzer, the one that our
18 State is giving out \$44 million to --

19 MS. MELTZER: It's Q RTP, Qualified Residential
20 Treatment Programs.

21 THE COURT: Okay. So you've not been in touch
22 with any of those, Mr. Walsh?

23 MR. WALSH: I personally have not been, but I'll
24 be -- I cannot say the Department hasn't been, so I will --

25 THE COURT: Well, Ms. Masters said you were the

1 man -- you were the person on the spot that would know
2 because I asked her --

3 MS. MASTERS: Your Honor --

4 THE COURT: She said they were real expensive so I
5 asked her to find out what the daily rate you were quoted
6 and apparently you weren't quoted because you never
7 contacted them.

8 MS. MASTERS: Your Honor, if I may?

9 THE COURT: Please.

10 MS. MASTERS: So I -- after hearing Kevin Ryan's
11 statement -- so I did talk to New Jersey, Florida, New York
12 and another State that is escaping me at the moment, but it
13 was not to -- no one gave referrals for specific facilities.
14 These were practice conversations, not about certain
15 facilities contract with. I do know that we did send out a
16 survey asking all of the facilities who are currently
17 licensed with the State of Texas that are not serving DFPS
18 and why that is and we can share that data with you if you'd
19 like.

20 THE COURT: I think these are -- Mr. Lawrence,
21 weren't you talking -- I'm sorry -- I keep calling you --
22 now I'm terrible with this -- Mr. Vincent, I apologize.

23 Have you shared the names of these providers with
24 DFPS?

25 MR. VINCENT: Your Honor, actually I was talking

1 to a Texas provider.

2 THE COURT: Okay.

3 MR. VINCENT: It was a Texas provider of high
4 quality, but residential and home and community based
5 services and I just asked him that theoretical question.

6 THE COURT: Okay.

7 MR. VINCENT: So I --

8 THE COURT: So you don't even know how expensive
9 these are because you never contacted them; is that right?

10 MS. MASTERS: That is not -- that's not correct,
11 Your Honor. We actually surveyed all of those facilities in
12 hopes of getting them to start serving our kids.

13 THE COURT: But what were the rates? I thought
14 you told me you were going to bring somebody in that would
15 tell me what rates you were quoted, the daily rate.

16 MS. MASTERS: Okay. I was understanding your
17 question differently and it's clear now and so, no, I don't
18 know what the daily rates are and if --

19 THE COURT: Well, you told me in your testimony
20 earlier -- put her under oath, would you, Ms. Purifoy?

21 THE CLERK: Yes, Your Honor.

22 Ms. Masters, please raise your right hand.

23 (Oath administered.)

24 MS. MASTERS: I do.

25 THE COURT: Do you adopt your previous statements,

1 Ms. Masters, that you gave here on the Record as true and
2 correct?

3 MS. MASTERS: With the understanding that I had
4 other questions, Your Honor.

5 THE COURT: Well, I asked you what you were going
6 to do to get qualified providers and you said they were too
7 expensive, and we had this whole discussion about
8 constitutional rights are not tied into expense. So that's
9 why I asked you to find out who you contacted and what these
10 rates were and then you --

11 MS. MASTERS: So, Your Honor --

12 THE COURT: -- defer to Mr. Walsh and it turns out
13 you all have not done anything, which does not remotely
14 surprise me.

15 MS. MASTERS: Your Honor, we have done quite a bit
16 and --

17 THE COURT: Who have you contacted and what rates
18 have you been given when you told me it was too expensive?

19 MS. MASTERS: Your Honor, I did not say that it
20 was too expensive or that we could not do it. What I am
21 saying is for a lot of our providers to serve some of the
22 needs of the children that we have and to have the
23 programming that is needed, that is a significant
24 investment. I did not say it is why we have not --

25 THE COURT: Then what is it? You've made that

1 statement. What is that based on? What fact, what figures
2 is that based on?

3 MS. MASTERS: It is --

4 THE COURT: This is not hard.

5 MS. MASTERS: It is the providers' comments about
6 the current rates not being sufficient enough.

7 THE COURT: Your current providers have not done a
8 very good job and we're going to get into that later.
9 Surely you know that.

10 We're talking about these providers that are not
11 under contract with DFPS that have been known to give high-
12 quality care. You told me that it was expensive so what do
13 you base that on, besides the present providers you have who
14 are not doing that great a job?

15 MS. MASTERS: It is just based on the current rate
16 that is clearly not sufficient.

17 THE COURT: Okay. And that -- and you found that
18 out because how?

19 MS. MASTERS: Because of the surveys that we have
20 done with the providers.

21 THE COURT: Okay. You know I looked up yesterday
22 just out of curiosity, speaking of these private providers
23 and these SSCCs, your salary is about a third of what
24 Mr. Carson's is; did you know about that?

25 MS. MASTERS: I did.

1 THE COURT: Okay. Just as an aside, speaking of
2 expense. And I realize the SSCC is a huge portion of their
3 expense is from charitable contributions, so maybe it is
4 apples and oranges, but it is of interest.

5 So you don't know what these high-quality
6 providers are going to charge because you have not contacted
7 them.

8 MS. MASTERS: In some of the meetings that we have
9 had, it's been quite a range. There is nothing consistent.
10 Everyone has --

11 THE COURT: What are -- what range have you talked
12 to about Mr. Lawrence's -- I'm sorry. I keep doing that,
13 Mr. Vincent. Mr. Vincent's contacts, what have you talked
14 to these other providers that would fall into the purview of
15 the -- what is it, the Q what?

16 MS. MELTZER: QRTP.

17 THE COURT: The QRTP that would fit those needs so
18 you would get the \$44 million over the next two years?
19 Which of those providers have you talked to?

20 MS. MASTERS: Okay. So I think we're talking
21 about two different kinds of placement and so --

22 THE COURT: We are, we are. I'm not talking about
23 your present providers. I am talking about providers that
24 presently fall in the QR-thingamabob.

25 MS. MASTERS: I don't think that we have any

1 providers that fit the criteria to be --

2 THE COURT: Yes, I know that.

3 Have you talked to any that do?

4 MS. MASTERS: So, Your Honor, first, for the
5 providers who are high quality that can meet the needs of
6 the kids, we have had quotes from anywhere from \$500 a day
7 to \$1,000 a day and those vary.

8 For the QRTPs, it's not about the rate. It's
9 about a set of requirements that have to be met to meet the
10 criteria to be a QRTP.

11 THE COURT: Right.

12 MS. MASTERS: So two different things.

13 THE COURT: Well, none of your providers meet the
14 requirements of that, right?

15 MS. MASTERS: That is correct.

16 THE COURT: Okay. So you're willing to give up
17 \$44 million to keep subsidizing these providers that are not
18 giving that good of care to your children.

19 Is that the bottom line on this?

20 MS. MASTERS: No, ma'am.

21 THE COURT: Well, why are you giving up the
22 \$44 million? Why don't you find providers that meet the
23 QR-whatever?

24 MS. MASTERS: I believe we have two pilots going
25 on that may be able to speak to that better to get them

1 ready to be QRTPs and are working with others to bring them
2 up to the required (glitch in the audio).

3 THE COURT: How about people that are already
4 ready?

5 MS. MASTERS: We don't have any in the State that
6 are already ready.

7 THE COURT: Mr. Vincent, is that correct?

8 MR. VINCENT: I don't know, Your Honor.

9 THE COURT: Does anybody know on the Panel?

10 MS. STANLEY: Yes, that's correct. They don't
11 have any QRTP providers currently and are working on a
12 couple of pilots and they delayed Family First when it first
13 came out so that was three years ago because they didn't
14 have any QRTP-ready providers and knew that it would take
15 some time to develop those functions.

16 THE COURT: Well, I thought that Mr. Vincent said
17 that there are providers that are willing to do that.

18 MR. VINCENT: Out-of-state providers, Your Honor.
19 Out-of-state providers are already QRTP.

20 THE COURT: The out-of-state providers.

21 MR. VINCENT: Yes, Your Honor.

22 THE COURT: That could come into the State of
23 Texas.

24 Has anybody looked into that? I realize this is a
25 political issue because it'll put the nose out of joint of

1 the present providers and I'm not concerned with that at
2 all.

3 MS. DRYDER: We are working with those who want to
4 be a QRTP to help them get the specific services to get to
5 that level. We have a team that's been working diligently
6 for over a year and so there are people who are wanting to
7 step up to the plate and want to do that service.

8 THE COURT: Who?

9 MS. DRYDER: Jillian would probably be the one who
10 could give specific names. She can come over here and give
11 them to me.

12 THE COURT: Okay. Where is she?

13 MR. NEUDORFER: We will have her here in just a
14 moment, Your Honor.

15 THE COURT: Okay. Mr. Yetter, we'll circle back
16 to that. You go ahead.

17 MR. YETTER: All right. Let me -- let's turn,
18 Ms. Meltzer, to the -- what I want to call the "leadership
19 recommendations" that the Panel Report includes and that is
20 with regard to strengthening the infrastructure and
21 accountability on page 15 of the Report and as I count, I
22 think there's six recommendations and we can take those as a
23 group, each of which have different timelines, but those six
24 would be developing a dedicated State interagency team,
25 which you've explained, right?

1 MS. MELTZER: Uh-huh. Yes.

2 MR. YETTER: Creating a clinical coordinator
3 position to coordinate services to youth in unlicensed care,
4 right?

5 MS. MELTZER: Yes, more than one.

6 MR. YETTER: More than one clinical -- several --
7 a number of clinical coordinator positions.

8 MS. MELTZER: Right, right.

9 MR. YETTER: Developing a cadence of
10 accountability within the State interagency team.

11 MS. MELTZER: Yes. So keep going and maybe I'm
12 going to have -- ask Ms. Stanley to talk about that
13 specifically, but it is really what we think is essential,
14 which is to set goals, use data, track on a continuance
15 basis, and then use that to basically track and adjust what
16 you're doing to achieve the results you want to -- you set
17 out.

18 MR. YETTER: All right. Well, let's circle back
19 on these in one minute.

20 MS. MELTZER: Yeah, yeah.

21 MR. YETTER: Let me get all six of them out.

22 Number 4 is: Have the interagency team complete
23 an analysis of the data of the children that have been
24 placed out-of-state during 2021 so they understood why those
25 children were being placed out-of-state and impact and

1 things like that.

2 MS. MELTZER: And even who they are. So, for
3 example, there needs to be an analysis by race, by age, what
4 their past experience is, what the -- what their experience
5 has been since then, et cetera.

6 MR. YETTER: All right. Number 5 was creating and
7 assigning a DFPS community liaison to the four regions with
8 the highest number of children in unlicensed placements.

9 THE COURT: I think they committed to that.

10 MR. YETTER: They did.

11 THE COURT: DFPS did commit to that.

12 MR. YETTER: They did, Your Honor.

13 And then number 6 is: Having the agencies, the
14 DFPS leadership team assisted by an external consultant or
15 team with the sort of expertise that they need, right?

16 MS. MELTZER: That's correct.

17 MR. YETTER: All right. So with that, one of
18 which we've already had commitment by the agencies on, are
19 there any of those other five that you'd like to comment?
20 First of all, are these unique and novel leadership
21 structure recommendations or do other states have similar
22 sorts of setups?

23 MS. MELTZER: So, no, they're unique and novel.
24 They reflect I think, the Panel's assessment based on what
25 we know about what's successful in other states, which

1 strategies that might be helpful to address these problems.

2 MR. YETTER: Is there anything that you saw in --
3 or heard from the State in the intense investigation that
4 the Panel did that led any of the Panel Members to your
5 knowledge to doubt whether the State could actually
6 implement these sorts of leadership changes to have more
7 accountability and more direction, that sort of thing?

8 MS. MELTZER: I would say, "No." I mean, I think
9 it's certainly doable. You know, again, we don't know
10 enough about the politics of the State or what's going on,
11 you know, on an interagency basis, but these are perfectly
12 feasible, doable short-term recommendations.

13 MR. YETTER: All right. One last question.

14 THE COURT: Let me just ask a couple of things.

15 Ms. Masters, are there any of these
16 recommendations that you are unwilling or unable to follow?

17 MS. MASTERS: Your Honor, I don't know that
18 there's any that I'm unwilling. The ability is what I have
19 to have meetings about. But there are several -- I mean, as
20 Commissioner Young said, I mean, the Report is excellent and
21 I think it's great information, so. I mean, I'm looking
22 forward to seeing what I can do from this Report.

23 THE COURT: Ms. Young, are there any of these
24 recommendations that you're unwilling to unable to do?

25 MS. YOUNG: Your Honor, I'm sorry, we were having

1 trouble here. I'm sorry, I was having the one meeting.

2 None of these recommendations I'm unwilling to
3 implement. Just again, try and figure out what
4 implementation would look like and resources that we can
5 gather to (indiscernible) there.

6 THE COURT: But are you opposed theoretically or
7 philosophically to any of these recommendations?

8 MS. YOUNG: No, ma'am.

9 THE COURT: Okay.

10 MS. YOUNG: I'm sorry, no, Your Honor.

11 THE COURT: It doesn't matter.

12 MR. YETTER: Ms. Meltzer, let me just ask one
13 concluding question on this.

14 Do you think -- in your opinion, does the -- you
15 and the Expert Panel believe that these leadership changes
16 are important to solve the current crisis and to keep these
17 children that are now being put in unlicensed placements
18 safe?

19 MS. MELTZER: Yes. And I'd like to turn to
20 Ann Stanley so she can expound a little on these
21 recommendations.

22 MR. YETTER: Thank you.

23 MS. STANLEY: Well, I'll start out with the idea
24 of lead and lag measures. Those really speak to the data we
25 received from DFPS on their dashboard for the children

1 without placement, which we would look at -- it's important
2 information, but it was lag measured. So it was giving us a
3 snapshot of what had happened.

4 And what this interagency team that we're
5 proposing could do is to consider some hypothesis of why
6 children are coming into these unlicensed placements, for
7 instance, children coming out of psychiatric care and put in
8 place some strategies to make sure that when children are
9 discharged, they're not ending up in unlicensed care and
10 then measure those strategies over time to see what worked
11 or refine them, change them to stick with them. And that's
12 the kind of work that we believe this interagency team could
13 do that could really make a difference in terms of moving
14 this -- the number significantly. So that's one example
15 from the recommendations.

16 I think the idea of having a community liaison is
17 really critical. We've seen with a couple of counties where
18 the State District Judge has gotten involved, has pulled
19 together stakeholders, including psychiatric hospitals,
20 education and especially people with lived experience, young
21 adults who've been in foster care and have had the
22 experience and knowledge firsthand of what that was like to
23 really inform what the system up here looks like at a local
24 level, and to start to develop the relationships that could
25 really prevent children from coming into unlicensed care or

1 congregate care and could more quickly move children out of
2 unlicensed care back with their families.

3 I think throughout the Report we recommended that
4 the DFPS and HHSC look externally. I think it's critical.
5 When we looked at the numbers of children in these
6 unlicensed placement for Texas, what stands out was
7 different than other states that I'm working in is that the
8 problem has gone on for a long time, there are a lot of
9 children and they're staying for a long time.

10 In many states that have tackled this issue, they
11 have put a lot of resources and coordinated efforts early on
12 when the problem first erupted and even though at times in
13 many of these jurisdictions, they'll have a few children
14 here and there end up in an unlicensed placement, it's very
15 short term and it hasn't become institutionalized.

16 And I think it's very critical that these efforts
17 be initiated right away and that's why we put such tight
18 time frames so that we really end the idea that this is the
19 way of doing business.

20 And part of I think our considerations in terms of
21 root causes was considering what we've seen -- and I'd like
22 other -- the other Panel Members to weigh in on this -- we
23 really tried to get at what's holding the Texas system in
24 place to where they haven't been able to make the
25 significant changes that need to be made and that the use of

1 unlicensed care has become part of the day-to-day operation.

2 And I don't think we have the 60 days to fully
3 answer to that, but I do think it is linked into the lack of
4 a shared vision and value and principles for how we treat
5 children and families. And we're hopeful that in putting
6 together this interagency team, that one of their first
7 steps could be to adopt those, to adopt them for their team
8 and then to adopt them more broadly in terms of all their
9 work with children and families throughout the State. I'll
10 let Paul and Judith weigh in too.

11 THE COURT: Thank you, Ms. Stanley.

12 MR. VINCENT: And I don't think I could add
13 anything useful to that. I think you spoke to that very
14 eloquently.

15 MS. MELTZER: Thank you.

16 I think the -- when we talk about these --
17 adopting these values and principles, you know, it's not
18 just having them on paper. It's making sure that they are
19 foundational to all the strategies and plans so they have to
20 be operationalized in the strategies that we're hoping that
21 this leadership team will focus on and put in place.

22 THE COURT: I just can't thank you all enough for
23 the work that you've done for the children in this foster
24 care program --

25 MS. MELTZER: Thank you.

1 THE COURT: -- and to be in the foster care
2 program. One of the things I guess that's always concerned
3 me is that every governor we've had and every legislature we
4 have had made this issue a priority, foster care. Money has
5 been expended going back to -- I think Governor Perry,
6 Governor Bush, George W. Bush, commissioned studies for the
7 foster care that came up with these same list of problems.
8 We're talking 20-25 years ago, same list of -- 30 years ago,
9 same list of problems that we're facing today. And now
10 they're under a mandate, the Federal Court, and resisted for
11 11 years -- 10 years and still it looks like we're just
12 going from bad to worse. It's very discouraging.

13 There are, like I said at the beginning, some
14 bright spots, but these -- this continued unconstitutional
15 and unsafe treatment of these children is just -- it's
16 getting to everybody that's deeply involved in this case.
17 So I appreciate you coming in and doing this work with your
18 vast years combined of experience and giving us a helping
19 hand when we need it. And on behalf of the children of
20 Texas, thank you.

21 I think we'll go now to the -- I think it
22 logically follows instead of going to the Monitors' full
23 Report that we go to the Monitors' Updated Children Without
24 Licensed Placement Report, which is pretty grim. One of the
25 serious incident reports, several of them have to do with

1 sexual issues, child-on-child activities in these
2 non-licensed facilities. The 15-year-old child having the
3 sexual relationship with the hotel clerk while supposedly
4 being supervised. These are children predominantly 14 to
5 17-year-old children who have been in foster care most, if
6 not all, of their lives. They're on multiple medications in
7 placements now that people are not qualified to -- according
8 to the Monitors' Report, not qualified to administer the
9 medications, don't know where the medications are and in
10 many times don't know where the children are, which brings
11 me to another question.

12 Months ago I questioned why it is we do not have
13 an adequate instant account of where each child in the
14 system is in the placements.

15 Now do we have that yet, Ms. Masters?

16 MS. MASTERS: I believe my team may be still
17 working on that process.

18 THE COURT: Oh, for God's sake. I just don't
19 understand this incompetence, I have to tell you. This is
20 just inexcusable, unsafe and dangerous. You don't know
21 where the children are. When the Monitors went to some of
22 these awful leased homes that you've leased that are
23 unlicensed, the people there, the staff didn't know where
24 the children were. They didn't know if they were in school,
25 if they'd run away, they had no idea where they were.

1 We've been worried -- we've been talking about
2 this for some time since the Monitors went out with a list
3 of children that you gave them. There was supposed to be in
4 this GRO to check where they were. The staff didn't know
5 where they were. One of the children had hung yourself
6 three months before and was still on the list of being
7 placed -- hung herself to death I might add, and was still
8 on the list of being placed in this GRO.

9 Now we know today 11 years into this lawsuit that
10 no one knows where these children are placed. I just -- I'm
11 speechless.

12 MS. MASTERS: Your Honor --

13 THE COURT: You are the parents. I don't want to
14 hear that IT is still working on it.

15 Mr. Yetter, Ms. Lowry, do you have any comments on
16 this?

17 MR. YETTER: Your Honor, it is -- it's another
18 example that the system of recordkeeping in the State is a
19 mess and why they persist on having four different systems
20 that don't talk to each other and resist the Court's Order
21 to have a unified system is beyond me.

22 THE COURT: Well, because the Fifth Circuit
23 vacated that remedy. After affirming it once, they vacated
24 it because the State went to oral arguments and stated it
25 would cost \$32 million without any evidence that was not

1 presented at any trial or any hearing and have refused to
2 give us that information subsequently, so we could inquire
3 into that and let them take it back up to the Fifth Circuit
4 with verified evidence.

5 I don't know, Panel Members, if you know that the
6 DFPS and HHSC's two computers -- some of their -- they have
7 several different computer systems. There's an IMPACT,
8 there's a CLASS, there's a Health Passport. None of these
9 systems speak to each other. And so when I prepare for my
10 Final Order after the trial for the 20-22 representative
11 class members, I ordered DFPS, which was one agency at that
12 time, to provide me with all the records they had for each
13 of these Plaintiff children. It took me 12 weeks I think to
14 go through the records that they had.

15 What they didn't provide me were any educational
16 records or any medical records or any mental health records,
17 zero. And it turns out that the educational records are
18 hand carried from place to -- they're hard copies, hand
19 carried, I don't know by whom, from placement to placement
20 to placement. You can see these children who've had 40, 50,
21 60 placements in their time in foster care, they don't have
22 any of those records.

23 Medical records, most of them now they tell me are
24 hand carried hard copies from place to place to place, so we
25 don't have those either. We don't have any mental health

1 records on these children. Many of them have been raped in
2 care, they've been beaten in care, they've been restrained
3 by GROs that have subsequently been closed as unsafe by the
4 State, and yet we have no counseling records unless it just
5 says, "Counseling today." We don't know what was done.
6 There's no -- you can't take those from placement to
7 placement and have any continuity.

8 So I appreciate the Panel's focus on mental health
9 issues because all these children need mental health care
10 desperately and we don't know if it's being given because
11 there are no records.

12 I asked back in 2017, I think, in a hearing the
13 Commissioner who was Mr. Whitman at the time -- wasn't that
14 the guy from the Coast Guard? He was one of the -- the
15 Coast Guard person, I think.

16 MR. YETTER: I don't remember, Your Honor. We've
17 had so many commissioners (indiscernible).

18 THE COURT: We've had so many is another issue,
19 almost as many commissioners as placements for some of these
20 children. And I asked Mr. Whitman about, for instance, just
21 medical records and mental healthcare records because
22 there's an E-filing requirement in the country that the
23 Department enters into contracts with the Medicaid
24 providers. Somewhere they've got to E-file what happened at
25 a given time for immunizations, for mental health for all

1 kinds of other things, so I said, "How about you have them
2 E-file into the health passport, which are the medical
3 records for the children?" He said, "I'm putting two stars
4 by that," and that's the last we heard. So we have no
5 medical records to speak of, no educational records.

6 The kids will come in at seven-years-old in good
7 standing in the second grade, for instance, age out at 18 in
8 the third grade level. The Monitors went to -- I think
9 Ms. Fowler did -- some of these unlicensed placements and
10 the children were actually crying out for school, "When can
11 I go to school? When can I get registered for school?"
12 They weren't in school.

13 And the Monitor said, well, just to the wonderful
14 places in the rundown neighborhoods with the rental duplexes
15 or whatever, "Where are these children?" "Well, I believe
16 they're in school," the staff said. "Well, what school?"
17 "Well, I'm not sure." "Can I see the educational records?"
18 "We don't have them." "Well, these children are supposed to
19 be on medications. Where are your medication records?"
20 "Well, we don't have them." "Well, where are the
21 medications?" "I don't know."

22 And that was just those awful-looking houses that
23 they were renting that are unlicensed and stuffing children
24 four to a room, poorly or lack of furnishings, plumbing that
25 didn't work, toilets that didn't flush, sinks that didn't

1 work, showers that didn't work. I mean, kids in juvenile
2 detention get better than that.

3 MR. NEUDORFER: You're on mute.

4 MS. MASTERS: Your Honor, if I may? I was just
5 told by -- that IT is scheduled to go live with the fix July
6 of 2022.

7 THE COURT: July of 2022. Then do you think we'll
8 know where the children actually are?

9 MS. MASTERS: I sure hope so, Your Honor.

10 THE COURT: That would be a really new twist in
11 this, wouldn't it? Sorry I act so angry. It's actually
12 because I am angry.

13 You know, all of these investigations also that
14 are in the appendices of the Monitors' Report -- I know I'm
15 doing this out of order, but most of these were agreed to by
16 HHSC and DFPS that the investigations were inadequate.

17 What consequences do you have in place for the
18 investigators that do -- that are found to have inadequate
19 investigations for the RCCI, Ms. Masters?

20 MS. MASTERS: We are bringing Justin in now. He
21 is over that division.

22 THE COURT: You don't know yourself?

23 MS. MASTERS: I think those are on case-by-case
24 basis. There are some staff who I have released myself
25 based on the work that has been done.

1 THE COURT: Do you have written consequences that
2 if this happens, you lose salary, you lose whatever?

3 Do you have any written policy?

4 MS. MASTERS: No, I don't think there's anything
5 that restrictive, Your Honor.

6 THE COURT: Why not?

7 MS. MASTERS: I don't know that there's a --

8 THE COURT: Shouldn't the investigators know what
9 they're facing if they do these pitiful interviews and
10 investigations?

11 MS. MASTERS: Yes.

12 THE COURT: While we're talking about that, you
13 have a new data person?

14 MS. MASTERS: I do.

15 THE COURT: And that data person has actually
16 asked the Monitors for a toolset that they use in evaluating
17 investigations. Now, okay, I'm going to give you a head's
18 up and a full disclosure. This is going to be a sarcastic
19 answer. The tools are their brains.

20 If you read their investigation summaries, you
21 find out what they're using. You're not interviewing the
22 staff involved, you're not interviewing the children
23 involved, you're not interviewing the reporters that
24 reported the abuse and neglect, not getting medical records,
25 those are the tools.

1 Why would you have to know what that is to make a
2 decent investigation? Those are the tools. There will be
3 no further response from the Monitors about the tools
4 they're using to evaluate your shoddy investigations. So
5 please tell that to the data expert that you've hired.

6 Did you know that, Mr. Yetter and Ms. Lowry, that
7 they were asking for tools?

8 MR. YETTER: I had not heard that, Your Honor.

9 THE COURT: Is that the most pitiful thing you can
10 imagine that they don't know what tools to use to
11 investigate serious incidents of abuse and neglect?

12 MR. YETTER: It actually explains a lot,
13 Your Honor.

14 THE COURT: It does, doesn't it?

15 So, Ms. Young, same question. For the RCCL
16 investigators, do you have any written consequences for
17 shoddy investigations?

18 MS. YOUNG: Your Honor, I'm going to turn this
19 over to Jean Shaw.

20 THE COURT: Hi, Ms. Shaw.

21 MS. SHAW: Hi, Your Honor. How are you?

22 THE COURT: I'm not going to have a stroke today,
23 I can you that. I'll be around a while.

24 MS. SHAW: We're glad to hear that, Your Honor.

25 (Laughter.)

1 THE COURT: Tell me, Ms. Shaw, what consequences
2 do you have in place for investigators that do this kind
3 of -- I'm saying, "Shoddy," trying to keep this clean --
4 shoddy investigations?

5 MS. SHAW: We have different systems in place
6 within -- I'm sorry, I'm not sure if you can hear me very
7 well with the mask on.

8 THE COURT: I can.

9 MS. SHAW: Okay. We have different systems in
10 place within our programs. We review the work of our staff
11 and if we find that our staff are not being compliant, we
12 follow our HR policies that could lead to a written warning,
13 it could lead to coaching, or it could lead to termination.

14 THE COURT: Do you have written policies of
15 consequences that are available that are handed to the
16 investigators so they know what happens when they go out and
17 take six months to do a policy -- to do an investigation for
18 a child that's claimed sexual rape by a staff or by another
19 child and is not even removed from the placement? Do you
20 have anything -- and it turns out they never get an
21 extension. There are no extensions given that the Monitors
22 could see for almost all of these delayed reports, and they
23 didn't interview all the people involved.

24 So do you have any written warnings to the
25 investigators that what happens if you don't do the

1 following?

2 MS. SHAW: We don't have anything specific that
3 says, "If you fail to do these things, here are the Human
4 Resources policies that apply." We can certainly can look
5 at adding that into the future. We do handle it on a case-
6 by-case basis and our supervisors meet individually with our
7 inspectors who are not meeting their time frames, if not
8 determining compliance with standards or the standards are
9 deficient timely.

10 THE COURT: Okay. Then are -- both Ms. Young and
11 Ms. Masters, what do you tell these people to investigate
12 when they're doing the investigations? Is there an outline
13 of what they're supposed to be doing, who they're supposed
14 to be interviewing, what records they're supposed to get,
15 what videos they're supposed to get?

16 MS. YOUNG: Your Honor, this is Commissioner
17 Young. Again, I'm going to hand it over to Jean Shaw.

18 THE COURT: Ms. Shaw?

19 MS. SHAW: Yes, Your Honor. We have extensive
20 policies about what's required during the course of an
21 investigation and what they're supposed to do that include
22 interviewing staff, interviewing children, what it takes to
23 properly initiate a case, time frames for initiation, if
24 they're going to determine if there's a deficiency things to
25 look for an what would help them make that decision. We

1 have a lot of information in our policy book to guide staff
2 and how to do a thorough investigation.

3 THE COURT: So you can see from these
4 investigations that that's not being done, the ones that
5 they flagged, the ones that the Monitors flagged.

6 MS. SHAW: Your Honor, the ones the Monitors
7 flagged I believe were investigations that were conducted as
8 abuse and neglect investigations.

9 THE COURT: Yes.

10 MS. SHAW: And my team at HHSC we would determine
11 deficiencies after DFPS has determined abuse or neglect has
12 occurred.

13 THE COURT: Okay.

14 MS. SHAW: When we reviewed the appendices, we
15 certainly found some areas in which our team could have done
16 better jobs related to citing deficiencies and we're
17 certainly going to follow up and to look into those related
18 to the deficiencies, but I cannot speak to the quality of
19 the investigations related to findings of abuse and neglect.

20 THE COURT: Okay. The ones that -- those are RCCI
21 investigations. Okay.

22 Ms. Masters, what do you -- what can you tell me?
23 Would it not be helpful to have some kind of scale of
24 warnings to the investigators that if you're not -- if you
25 don't do A, B, C through ZZ, that this may happen?

1 MR. LEWIS: If I may?

2 MS. MASTERS: Oh, go ahead. I'd like to turn that
3 over to Justin Lewis, Your Honor.

4 MR. LEWIS: Justin Lewis, Your Honor.

5 THE COURT: Mr. Lewis?

6 MR. LEWIS: Yes, ma'am. So in the past,
7 deficiencies were not handled as disciplinary issues.
8 However, in December, I released a memo to my command staff
9 and supervisory staff that they would, in fact, be -- handle
10 disciplinary issues from this point on. We have an HR
11 disciplinary process. Just a brief overview of it, I'll
12 talk about the timeliness aspect of it.

13 THE COURT: Are you going to stay around a while?
14 You're the -- I think the third or fourth head of RCCI in
15 two years.

16 MR. LEWIS: Ma'am, I plan to stay here until they
17 run me off. I've been with the agency for six years now
18 after 14 years in law enforcement. I kind of like what I'm
19 doing, so I plan on --

20 THE COURT: Good. Thank you. So then you ought
21 to know what tools to use to investigate a claim of abuse
22 and neglect.

23 MR. LEWIS: Yes, ma'am. We have recently revamped
24 what we call the "Case Reading Guide." It gives our workers
25 and our supervisors kind of a roadmap. It's not an

1 all-inclusive list, but it's a roadmap of where to go. It's
2 very hard to set out this is who you're going to interview,
3 this is what records you need to get because it changes from
4 case to case. But that Case Reading Guide gives us a nice
5 roadmap to look at to make sure things are done.

6 The supervisors now when they read cases and
7 approve them, they personally have to sign off on that
8 Reading Guide to make sure that all of those tasks that are
9 pertinent to that investigation have been done and if they
10 weren't, why not? So we are putting steps into place to add
11 additional layers of accountability into our investigations
12 that will help not only the time limits, but also the
13 qualitative component as well.

14 THE COURT: Thank you.

15 In the Monitors' visits of the Villas, which are
16 euphemistically called "the Villas," and to duplexes leased
17 by DFPS in Houston and a house called "Penelope" or Penelope
18 House leased by DFPS in Belton, they interviewed -- four of
19 the five children interviewed with reported not attending
20 school. Of the four children, three indicated they had not
21 been enrolled in school since arriving at the placement.
22 One child expressed considerable frustration of the delay in
23 enrolling her in school and noted that she had attempted to
24 reach her caseworker, but the caseworker did not respond to
25 her calls.

1 Failure to enroll children in school, of course,
2 is a safety issue.

3 (Pause in the proceedings.)

4 THE COURT: As to medications, the -- of the 14
5 children whose onsite records were reviewed, eight records
6 included medication logs and the Monitor Team found that
7 none of those eight indicated the child always received
8 their medicine as prescribed. Five of the eight sometimes
9 received their medication as prescribed. Two did not
10 receive the medication as prescribed. And one child's file
11 was missing medication logs from the first part of the stay
12 at the setting.

13 Four of the 10 caregivers reported they didn't
14 feel safe there. Eight of the 10 caregivers interviewed
15 reported they were always informed when a child was a victim
16 of sexual abuse or had an indicator for sexual aggression;
17 however, only five of the 10 indicated they were told --
18 sorry -- that they were told when a child had a history of
19 physical aggression.

20 This Villas looks pretty bad in an abandoned
21 neighborhood. And the duplex -- one of the duplexes -- and
22 the house duplex -- Houston duplexes indicated that one PMC
23 child was present in the unit, was asleep in her bedroom,
24 not feeling well and would be taken for a COVID test later
25 in the day, probably another unvaccinated child. Staff

1 reported the child had been suspended from school, but
2 didn't know why or for how long.

3 Another duplex -- at the other duplex, the PMC
4 child was asleep on the couch. Oh, from the first duplex,
5 the staff didn't appear to know whether other children
6 housed at that setting were in school or had run away.

7 The records of the duplexes were not well kept.
8 Staff didn't appear to be knowledgeable about the children
9 they were supervising or have the information to make a safe
10 supervision.

11 One of the staff couldn't tell the monitoring team
12 where the medications were kept. There was an open, empty
13 lockbox on the floor in the kitchen. But they did -- one of
14 the staff pointed out a lockbox that supposedly contained
15 the children's medications and other medical supplies.
16 However, nobody knew the combination to the lock.

17 And Penelope House, which is in Belton, Texas,
18 older home, exterior was cluttered with broken chair, file
19 cabinets, broken glass and other trash. The locks to the
20 children's medicines were faulty or broken. It took the
21 staff some time to find the right key to open one of them,
22 which indicates that they didn't -- they weren't given their
23 prescriptions. Staff were -- when the monitoring team
24 requested the children's onsite records, the staff were seen
25 to quickly -- be quickly signing documents that should have

1 been signed at the start of their shift. Security was
2 provided by a security -- private security company. In the
3 pictures they provided, there were signs on the windows that
4 said that they should be blocked.

5 Another concerning thing I have about the
6 recordkeeping with the SSCCs is that DFPS or the State is
7 paying them a blended rate, so we're not sure from the
8 records which children are in temporary placements, which I
9 really -- they seem so awful that they seem to be
10 unlicensed, but in fact they are licensed, because they run
11 them in out of these TEPs so it doesn't look like they're in
12 there for a long period of time. That's the SSCCs.

13 So I'm going to ask Ms. Masters if from this day
14 forward the SSCCs can be required to let you know by some
15 tabulation so the Monitors can review which children are in
16 the TEPs regularly, exactly which child is where on what
17 day? And I know that it seems to be sort of disguised
18 because you -- it's a blended rate so they're not separated
19 and I'm not sure if that's the same with the TEPs.

20 What's the rate that you're paying for these
21 duplexes and houses? Ms. Fowler, did you know that? Did
22 you tell me what that was?

23 MS. FOWLER: Well, they entered into residential
24 leases with private entities for the duplexes in Houston and
25 for the Villas and I -- we don't have a copy of the lease so

1 I don't know how much they're paying for them.

2 THE COURT: Can you give them a copy of that
3 lease, Ms. Masters? I guess that would be HHSC?

4 MS. MASTERS: Yes, Your Honor, we can do that.
5 And I think for our TEP beds, it may vary, but I think it
6 may be around 450 or something like that, but we will get it
7 exactly for you.

8 THE COURT: Yeah, the TEP beds -- now that's
9 temporary placements, Panel Members. They're called "TEPs."
10 I don't know if you've seen these in other -- we're not
11 talking compassionate release, compassionate care. You
12 know, when you grab a child that's being sexually abused in
13 a placement and put them quickly in a compassionate release
14 place till they find a placement, these are temporary TEPs
15 and it looks like, for instance, OCOK, which is one of the
16 SSCCs, have almost 3,000 days of placements.

17 Am I misquoting that, Ms. Fowler?

18 MS. FOWLER: I would just refer to the table in
19 the Report which was provided to us by DFPS and it lists the
20 number of days for I think a portion of the providers that
21 OCOK indicated they had placed children in temporarily. And
22 I don't know -- so I'm a little confused about the list that
23 was provided by DFPS for OCOK and perhaps they can, you
24 know, provide some clarification on that.

25 THE COURT: So these inadequate residential and

1 abandoned -- one was in an abandoned neighborhood
2 altogether. These leases -- because the State legislature,
3 I think, made it into law that they could not be -- these
4 children could no longer be placed in offices though they
5 still are, these were quickly rented to stuff these children
6 in these rental houses to get them out of the offices. That
7 was my understanding. If I'm incorrect, somebody let me
8 know.

9 (Pause in the proceedings.)

10 THE COURT: So a lot of these children without
11 licensed placements were sent out-of-state to what the
12 Monitors described -- the visit Ms. Fowler and her team
13 visited to in Michigan that were startling actually and had
14 many -- they were not, of course, in the Michigan -- two
15 placements. They were not given -- didn't have access to
16 all of the citations issued against these two places, but
17 they -- on the public records they put in here very clearly
18 all the deficiencies of these places, plus what they saw as
19 deficiencies.

20 (Pause in the proceedings.)

21 THE COURT: Among the issues raised by some of the
22 stakeholders to the Monitors that was the concern that SSCCs
23 were frequently moving children between the TEP beds in
24 order to avoid listing them as children without placements,
25 which is why these TEP bed days are so high for just OCOK.

1 DFPS explained that "We've not required the SSCCs
2 to mark or flag a child in IMPACT as a step or temp
3 placement." Step placements, as I understand, are what the
4 temporary placements are. DFPS calls -- has their
5 placements that are temporary called "TEPs." SSCCs have
6 them -- they call "Steps," also temporary.

7 And so we don't know exactly how many are going
8 where. Of course, we don't know where the children are
9 period. But DFPS did say that the word "Temp" and "Step"
10 may be used interchangeably.

11 OCOK has reserved bed agreements for their
12 temporary placements with Agape Manor Home, CK Family
13 Services, Kids First, Perfection Children's Services and Rye
14 Services of Texas (phonetic). And additional placements
15 that they've paid temporary days to are ACH Child and
16 Family, Camp Worth Everyday Life (phonetic), Hidden Cove
17 Residential, IMDC, Pinecrest Emergency Care Services and
18 Kids First, Make A Way, Inc., Perfection Children's
19 Services, Refuge for DMST, Vision, National Youth and View
20 (phonetic), total days spent -- was it from December 20 to
21 September -- a nine-month period -- 10-month period -- nine-
22 month period by just OCOK in temporary placements were 2,904
23 billed days according to the records provided to Monitors.

24 At least five of these providers that we just --
25 as I just reviewed have a history of safety violations.

1 Promise House, for instance, is not under tightened
2 monitoring, but is on probation. The monitoring team
3 visited two of these temporary providers, Unity Children's
4 Home is for girls only and Promise House. These children
5 are staying months in these alleged temporary placements.

6 And on page 29 of their Updated Report, talk about
7 repeated placements in TEP programs. Initials R.N. placed
8 in Unity Girls, was one of 20 placements what's been in over
9 the course of three years in care. S.J. was placed in Unity
10 Girls. It's one of 20 placements during her 19 months.
11 She'd be placed in TEP twice before. B.R., who's placed
12 into the TEP units program and Unity Girls is one of more
13 than 20 placements since 2018, late 2018. She'd been in TEP
14 placement at Unity Girls once before. L.B. whose placements
15 in the TEP program at Promise House was one of at least 34
16 placements since reentering foster care in 2016 and then
17 Promise House once before. D.D. had over 20 placements
18 since entering foster care in 2020. Three had been in
19 Promise Care. So you can see that this is not a good thing
20 for these children.

21 All of these children also had significant
22 behavioral and mental health challenges arising out of the
23 trauma they experienced both prior to and after entering
24 foster care and a shared history of declining mental and
25 behavioral issues since entering care. Mostly likely,

1 according to the Monitors, exacerbated by the instability
2 and disruptions that have occurred in the multiple
3 placements.

4 So there's a -- they speak about a 15-year-old PMC
5 child whose care is provided by St. Francis, had 16
6 placements in a three-month period when she was placed at an
7 RTC in Arkansas.

8 Now each of those TEP placements are licensed. I
9 don't know what it takes to license a TEP, but apparently
10 not much. The Unity Home is private for-profit entity and
11 they say on their website:

12 "To assist youth in developing a mindset that supports
13 a desire to model a spiritual approach designed to
14 promote purposeful living and spiritual healing that
15 every child," it says, "is entitled to reside in an
16 environment that promotes spiritual enrichment,
17 emotional stability and appropriate physical, social
18 growth and development. Every child should be
19 encouraged to reach their maximum potential."

20 There are two campuses. Seven of eight of the
21 children in the temporary campus were PMC children. Review
22 of the compliance history for that facility for the past
23 five years shows 48 citations. Unity Girls is not on any
24 monitoring to corrective action, has only had one confirmed
25 finding of abuse, neglect or exploitation, when the DFPS in

1 March -- last March found two staff had physically abused a
2 child who was being transported to a psychiatric facility.
3 The TEP program at Unity Girls appears ill-equipped to
4 manage children who are at high risk for running away.

5 What's stunning about the Monitors' Report is that
6 DFPS placed runaway children, documented runaway children in
7 Unity Girls class -- Unity Girls, which has a history of
8 runaway children and sure enough when they got to Unity
9 Girls, they ran away. And there's a whole timeline about
10 the children who ran away.

11 So -- and Promise House is licensed to serve 42
12 residents and they have specialized, intense, intense-plus
13 IPT or TEP. They have an emergency shelter that also houses
14 the TEP program. Children in the TEP are housed on the
15 second floor of the building. When the Monitor team
16 visited, there were seven girls and one boy identified youth
17 on the TEP unit, two boys housed in the emergency shelter.
18 One of the youth from the TEP unit was on a one-to-one
19 supervision and housing emergency shelter downstairs. All
20 of the children in the TEP program on the day of the
21 monitoring had been placed in Promise House by DFPS. They
22 attend an onsite school, which is erratic attendance and
23 curriculum to say the least. If you read the Report, two
24 hours a day for some -- the most they get.

25 And Promise House has been under multiple RCCR

1 enforcement actions in the last two years, one of which was
2 a staff person placing a child in a chokehold, another --
3 several were for neglectful supervision and then on
4 standards violations.

5 They failed -- the program director failed to
6 remove a child with an indicator of sexual aggression from
7 sharing a room who was a child of sexual -- who was a child
8 with a verified history of sexual abuse. The child told the
9 therapist about the abuse that occurred in the Promise House
10 before the child running away, but the therapist did
11 nothing.

12 Another one in Promise House that was stunning was
13 there is a -- one of the children placed there had tried to
14 kill herself by wrapping a vacuum cleaner cord around her
15 throat, so as part of the corrective action, the Promise
16 House was supposed to keep the vacuum under lock and key and
17 instead the Monitors saw it in the open kitchen unlocked.

18 The Promise House does not appear to implement
19 positive behavior intervention practices despite the claim
20 on its website. All the website apparently promises and
21 outlines and goals were incorrect and not being followed.
22 In fact, many of the staff didn't even know what they were
23 or how to explain the definitions of what they were supposed
24 to be.

25 In October of 2021, 15 percent of the DFPS

1 placements in RTC were out-of-state, 31 percent of US -- of
2 the SSCCs were out-of-state. Not promising here.

3 So the Monitors then went to Evert Youth Center in
4 Michigan. Ten of the youth of the Texas -- there were 10
5 Texas youths. Eight of those were PMC. Eight were placed
6 at Evert by DFPS, one by OCOK and one by To Engage
7 (phonetic). And the one that was OCOK was discharged at the
8 facility's request. One had planned to go, I think, live at
9 a staff house, didn't want to go back to El Paso.

10 (Pause in the proceedings.)

11 THE COURT: The girls facility under public
12 records has multiple violations reported, yet -- oh, and one
13 of the interesting things about To Engage, you know, they're
14 supposed to make -- the caseworkers are supposed to make
15 face-to-face visits once a month. So To Engage had this
16 wonderful way of cutting down 12 months of visits into six
17 by going on the 31st of the month and the 1st of the month
18 the next day, or the 30th and the 1st whichever months had
19 30 days. Now of course that is stunning and apparently DFPS
20 really doesn't track those things, but fortunately for us,
21 the Monitors do.

22 One of the violations of the boys' facility there
23 was that the front door of the facility was missing and then
24 there hadn't been any heat for 24 hours despite it being
25 28-degree weather. Physical restraints, sexual conduct

1 between the girls in the girls' facility and the boys in the
2 boys' facility.

3 And these pictures of these Michigan places -- I'm
4 just curious, Mr. Carson, what exactly before you place a
5 child in something like this, what kind of an investigation
6 do you do?

7 MR. CARSON: (No audible response).

8 THE COURT: You're on mute.

9 MR. CARSON: There we go. We take a look at the
10 history of the organizations, so this organization has been
11 nationally accredited since 2020 through (indiscernible).
12 We do get --

13 THE COURT: But you don't have any watch list that
14 facility is on?

15 MR. CARSON: Yes. We did get a history of their
16 licensing history and part of looking at, you know, whether
17 or not to use them, we're not aware of --

18 THE COURT: Did you look at these public citations
19 for the boys units and the girls units here? They're really
20 quite stunning.

21 MR. CARSON: We look at --

22 THE COURT: No treatment plans, no interval
23 checking for 24 hours for the overnight -- for the awake
24 nights, which apparently is a rule in Michigan. We had to
25 make it one in Texas, but it is a rule in Michigan.

1 Did you find all these about --

2 MR. CARSON: We did look at their licensing
3 history. We were informed by licensing that there were no
4 open investigations at the time we contracted with them, so
5 that --

6 THE COURT: Did you look at the history of these
7 violations?

8 MR. CARSON: We did, yes, Your Honor.

9 THE COURT: Okay. Well, let me explain to you,
10 Mr. Carson -- who is the coordinator, who's the director of
11 To Engage?

12 MS. DRYER: Your Honor, Shirley Dryer.

13 THE COURT: Okay. Let me explain to both of you.
14 This six visits in a year for a 12-month period is not going
15 to work, Ms. Dryer. It's shameful. You all cannot avoid
16 the remedies that this Court has ordered by stuffing these
17 children into these awful facilities out-of-state.

18 Do you understand that, Ms. Dryer?

19 MS. DRYER: Yes, Your Honor.

20 THE COURT: Mr. Carson, is that clear?

21 MR. CARSON: Yes. We have no intent to put kids
22 in bad facilities.

23 THE COURT: Well, you did. Well, you did. You
24 put one of your children -- it just -- if you read this
25 Report, it's pretty bad.

1 So, Mr. Yetter, do you have questions about this
2 Report for the unlicensed children -- or unlicensed
3 placements?

4 MR. YETTER: Your Honor, I think you've covered
5 everything that I was going to bring up. I will say one
6 comment, Your Honor, is that the Monitors' most recent
7 Report, Docket No. 1171, reflects the serious physical and
8 psychological safety risks to children that are being placed
9 by the State in unlicensed facilities and it is ongoing and
10 it is a shameful crisis for the State to see this and it is
11 not new. According to the Expert Panel and as the Monitors
12 have made clear, this has been going on for years, long
13 before the remedial Order went into effect. This is a -- as
14 I believe Ms. Stanley said, this has become
15 institutionalized in Texas and that's what's so frustrating
16 and (indiscernible) about this.

17 THE COURT: It's all abuse.

18 MR. YETTER: It is now part of the structure of
19 the system and unless it gets changed now, it will continue
20 to be.

21 THE COURT: The Monitors couldn't find face-to-
22 face visits for one of the children in this Evart place.
23 The monitoring team noticed -- which SSCC was this for, was
24 this a placement where they said they couldn't make a face-
25 to-face because of the COVID because it was a 14-day COVID

1 restriction? Do you remember what --

2 MS. FOWLER: I don't think that was an SSCC. I
3 think that may have been a DFPS placement.

4 THE COURT: Okay. And of course it turns out that
5 the Monitors discovered there was no 14-day COVID
6 restriction during that time period, just an excuse for not
7 (indiscernible).

8 MS. FOWLER: Right. I want to be clear, I don't
9 know if the facility told the caseworker that because we
10 don't have the ability to see what they communicated to the
11 caseworker. All we can see is the reason that the
12 caseworker included it in IMPACT for not making a face-to-
13 face visit. So I don't know if -- I don't know where the
14 miscommunication was.

15 THE COURT: Okay. But we know the child was not
16 seen and that there was no COVID restriction.

17 MS. FOWLER: There certainly wasn't a COVID
18 restriction that we were made aware of by the time we
19 arrived on the campus to visit just a few days later.

20 MR. YETTER: I think, Your Honor -- excuse me.
21 One thing I will say, if I could, is that I think the
22 recommendations in the Expert Panel Report are -- would go a
23 long way to address the very things that the Court Monitors
24 have memorialized in their supplement or update on the
25 children without licensed -- in licensed -- children in

1 unlicensed placements. And perhaps maybe after lunch,
2 Your Honor, we could -- we might want to go through that.

3 THE COURT: Oh, is it that time?

4 MR. YETTER: Yes, I think it would be a good time
5 for lunch.

6 THE COURT: So we have left to cover -- I have a
7 whole -- it's not that much, but it is a notebook I made of
8 reviewing prior transcripts to see about questions I asked
9 that were going to -- someone was going to get back to me
10 and so that's some of the things I want to cover at the end,
11 but I want to go through the Monitors' Reports, any
12 questions anybody has.

13 And what -- Krause (phonetic) Children's
14 Residential, what -- whose RTC is that?

15 MS. FOWLER: Judge, Krowsi (phonetic) has -- is
16 one of the operations that's closed.

17 THE COURT: Okay.

18 MS. FOWLER: It was closed in lieu of a licensed
19 revocation.

20 THE COURT: Right. And that was because an OCOK
21 caseworker reported that one of their children that they
22 placed there reported emotional abuse. That was one of the
23 reasons. And this is in the appendices for inadequate
24 investigations.

25 So how much time do you all want for lunch?

1 MR. YETTER: Whatever the Court -- we're fine with
2 whatever the Court --

3 THE COURT: Oh, good answer, Mr. Yetter.

4 Ten minutes? No. Okay. I'm going to ask,
5 Ms. Masters, what do you all want for lunch?

6 MS. MASTERS: Thirty minutes is enough,
7 Your Honor.

8 THE COURT: How much?

9 MS. MASTERS: Thirty minutes.

10 THE COURT: Is everybody okay with 30 minutes?
11 Let's make it 45 minutes. Let's do 45. Everybody okay with
12 that?

13 MS. MASTERS: Yes, Your Honor.

14 MR. YETTER: Yes, Your Honor.

15 THE COURT: Okay. Then I'll see you back in 45
16 minutes. Thank you.

17 MR. YETTER: Thank you, Your Honor.

18 (Recess taken from 12:35 p.m. to 1:19 p.m.)

19 AFTER RECESS

20 THE COURT: We ready to go?

21 MR. HUDSON: Yes, Your Honor.

22 THE COURT: Thank you.

23 Okay. Then let's see, is everybody here?

24 (No audible response.)

25 THE COURT: And Mr. Hudson, you can eat any time

1 you want here or drink. Don't worry about it. I saw you
2 trying to stuff the last bite and you -- no, don't -- don't
3 worry about it, please.

4 MR. HUDSON: I appreciate that, Your Honor. Thank
5 you.

6 THE COURT: Anybody feel free to snack, or drink,
7 or do anything they want. I recommend no alcoholic
8 beverages, though, until after the hearing.

9 (Pause in the proceeding.)

10 THE COURT: Are we missing anybody? Mr. Hudson,
11 can you do a count from your side there?

12 MR. HUDSON: From my side, Your Honor, it looks
13 like we have H. Justine (phonetic), DFPS. They sent me for
14 the OOH (phonetic), one riot, one ranger for the Governor,
15 Your Honor.

16 THE COURT: That's it. That's all you need,
17 right?

18 MR. HUDSON: Am I not enough?

19 THE COURT: One riot?

20 (Pause in the proceeding.)

21 THE COURT: So, Mr. Yetter, do you want to begin?
22 I -- I -- I sent a message through -- oh, one -- one thing I
23 wanted to tell you all. The medical expert for the minors
24 is a friend of mine. He's doing this for free. I don't see
25 any particular conflict. Because now the Monitors are

1 friends of mine as well. So he became available with his
2 retirement at 74 and offered to do this.

3 And so I thought it was fantastic. But I did want
4 to make that disclosure.

5 (Pause in the proceeding.)

6 MR. YETTER: Yes, Your Honor. I'm -- I have a few
7 questions, if the Court would permit.

8 THE COURT: Does anybody else have any questions
9 about that with -- about --

10 MR. YETTER: We --

11 (Pause in the proceeding.)

12 THE COURT: Okay.

13 MR. HUDSON: The only question from my
14 perspective, Your Honor, would be was the disclosure on the
15 Record just now?

16 THE COURT: Yes.

17 MR. HUDSON: Okay.

18 (Pause in the proceeding.)

19 THE COURT: And -- and is there any problem with
20 that?

21 MR. HUDSON: No, I -- I didn't say I raised any --
22 any issue.

23 THE COURT: Oh, okay.

24 MR. HUDSON: I just want to make sure it was on
25 the Record. So I wasn't aware that the Record started back

1 up.

2 THE COURT: Yes, it's back.

3 (Pause in the proceeding.)

4 THE COURT: All right. Mr. Yetter, I think we're
5 all here.

6 MR. YETTER: Yes, Your Honor. I'd like to -- I
7 have some questions I'd like to direct to Commission Masters
8 if I may?

9 THE COURT: Go ahead.

10 MR. YETTER: And I -- they -- the first two relate
11 to the update that the Monitors filed yesterday with the
12 Court about children in unlicensed placements. This is
13 Docket Number 1171.

14 Commissioner Masters, this is the -- the Report
15 that the Monitors filed yesterday with -- about the children
16 in unlicensed placements. Have you read it?

17 MS. MASTERS: I have not read all of that one.

18 I spent all of my time last night going through
19 the finalized Report for the Expert Panel.

20 (Pause in the proceeding.)

21 MR. YETTER: There is a section on the rental
22 properties called "The Villas." And we've had some
23 discussion about that during this hearing today. And it's
24 in -- it is in the Report, along with photographs of The
25 Villas.

1 Do you -- you know what I'm talking about?

2 MS. MASTERS: I am familiar with that. I believe
3 we have amended that contract a couple of weeks ago, or it's
4 due to be implemented in February, that we have reduced that
5 contract and reduced the number of -- of locations that we
6 are using.

7 MR. YETTER: Now you -- you've seen photographs
8 of -- of The Villas and how it is geographically right next
9 to a large, abandoned, and now dangerous and lighted,
10 effectively, housing development?

11 MS. MASTERS: I have not seen photos. Actually, I
12 heard some things for the first time on this hearing. And
13 so --

14 THE COURT: Well, why don't you -- why don't you
15 just look at that Report now and turn to the photos?

16 MR. YETTER: Right.

17 (Pause in the proceeding.)

18 MR. YETTER: It's on page 14 of the Docket 1171,
19 the -- the Monitors update regarding safety of settings,
20 housing children without placement, and site visits.

21 (Pause in the proceeding.)

22 THE COURT: While they're waiting on that --

23 MR. YETTER: Of course.

24 THE COURT: -- Ms. Masters, you know, I have
25 alluded to my dissatisfaction today with some of DFPS' work.

1 And I want to mention again that you have now -- you brought
2 in somebody from Kansas that's -- took over Mr. Woodruff's
3 position.

4 And when the Monitors make requests of her, she
5 makes sure she delays every response till 30 days, which is
6 not my Order. My Order is very clear in the Monitors'
7 section that you're both -- all the entities are to
8 cooperate solely with the -- completely with the Monitors.

9 So if they ask for something that's going to
10 require ten minutes of research, do not wait the 30 days
11 anymore. If it's a document the collection is going to take
12 a while, I can understand the 30 days. But simple things
13 that -- that do not take that time, make sure she
14 cooperates, please, and that we get off on the right foot
15 with a new member of your staff.

16 Will you do that, Ms. Masters?

17 MS. MASTERS: Yes, Your Honor.

18 THE COURT: Thank you.

19 (Pause in the proceeding.)

20 MS. MASTERS: The outside of --

21 THE COURT: Okay.

22 MS. MASTERS: -- these facilities is disgusting.

23 MR. YETTER: It is disgusting. It's more than
24 disgusting, though. It is a significant safety risk to the
25 children; is it not?

1 MS. MASTERS: Yes. I -- I wouldn't want to see
2 this.

3 MR. YETTER: And as far as the Monitors, of
4 course, you've not been out there. And you've -- have you
5 not gotten any Report form any of your DFPS staff on The
6 Villas and whether they reflect a significant safety risk to
7 children, have you?

8 MS. MASTERS: I have not.

9 MR. YETTER: So the -- the Monitors brought this
10 to you attention for the first time here in this lawsuit.
11 What are you going to do about it?

12 MS. MASTERS: I -- obviously I'm just now looking
13 at these photos and hearing this information. I will be
14 meeting with my staff immediately after this to address
15 this.

16 (Pause in the proceeding.)

17 THE COURT: Who's in charge of doing these --
18 making these contracts?

19 (Pause in the proceeding.)

20 MS. MASTERS: I think Bill could speak to that
21 process for our -- our contracts. But I think it's a joint
22 decision when it comes to the licensing of the facilities
23 and then also the contracting with the Department. I can't
24 say.

25 THE COURT: Who entered into the lease agreement?

1 MS. MASTERS: I believe we did.

2 THE COURT: Uh-huh.

3 MS. MASTERS: But I could ask Bill to speak to
4 that directly.

5 THE COURT: Well, this is a CWOP (phonetic)
6 placement. So it's not licensing. So I don't know how
7 joint --

8 MS. MASTERS: I -- so, yeah. That would just be
9 us then if this is an unlicensed placement.

10 THE COURT: It certainly is unlicensed.

11 Okay. Who in you -- who in your Department knows
12 about it?

13 MS. MASTERS: That would be Bill that can -- Bill
14 could speak to that.

15 MR. WALSH: Yes. Hi, good afternoon, Judge. This
16 is Bill Walsh with Department of Family and Protective
17 Services.

18 THE COURT: Yes, Mr. Walsh, you're -- you're
19 landing in it today.

20 So what do you know about this contract for these
21 strange looking places and unsafe looking places?

22 MR. WALSH: Yeah. So we enter into those leases.
23 And we do -- we do do on-site visits. And so we research --

24 THE COURT: Who did -- who did in your -- while --
25 while we're here you find out who did that. And -- and put

1 him on line and put him in here.

2 MR. WALSH: Okay. Let me do some research to
3 figure that out.

4 THE COURT: You're new so you didn't do it, right?

5 MR. WALSH: No, Your Honor. That was typically
6 done, the on-site visits were typically done by someone in
7 Child Protective Services. And so I'm in a -- the
8 contracting position.

9 THE COURT: Well, find out who did it and put him
10 on -- put him on the horn right now. Thank you.

11 MR. WALSH: Okay.

12 THE COURT: Let me know when they're -- when you
13 got them.

14 MR. WALSH: Okay.

15 MS. MASTERS: Your Honor, Erica is actually
16 finding that out.

17 THE COURT: Okay. Thank you.

18 Okay. Go ahead, Mr. Yetter.

19 MR. YETTER: Okay. Let's move --

20 THE COURT: Will that -- that help you in your
21 process?

22 MR. YETTER: Yes, it will absolutely.

23 But while we're waiting for that, Ms. Masters,
24 let's move to the Evart Youth Center, which is on page 42 of
25 the Monitors' update yesterday. This is the Michigan

1 facility that DFPS has put 10 foster children, 8 PMC
2 children at in recent months.

3 Are you familiar with the Evart Youth Center?

4 MS. MASTERS: Somewhat, yes. I believe that's --
5 is that the one that Deborah sent us the email about?

6 MR. YETTER: I believe it is. And did you do an
7 investigation after the Court Monitor, Deborah Fowler, sent
8 you the email?

9 MS. MASTERS: So I understand that our staff have
10 been out, as well as I think we might have SSCC kids there.
11 And they've also been out to do visits.

12 I don't believe, and Justin can correct me, that
13 we have authority to investigate within the facility. And
14 we are reliant upon their either licensing or childcare
15 investigation. I believe that we --

16 THE COURT: Yeah. We're not talking about you
17 licensing these facilities. We're talking about before you
18 put a Texas child in there, do you look at it and see that
19 it's satisfactory?

20 Because I don't think you did. Did -- did anybody
21 do that? Yes or no.

22 MS. MASTERS: I don't know. Jillian, can you
23 speak to that?

24 MS. BONACQUISTI: Yes, Your Honor.

25 (Pause in the proceeding.)

1 MR. YETTER: Yes, what? Someone actually visited
2 the facility in person?

3 MS. BONACQUISTI: So yes, Your Honor. So
4 specifically regarding Ewart, we have been placing youth in
5 Ewart for quite a while.

6 So I am not sure what was completed before we
7 placed the first kid there. But we do -- we have several --
8 several procedures in place to ensure that out-of-state
9 operations are in good standing with licenses from out-of-
10 state.

11 THE COURT: Okay. Well, these are -- these are
12 really not in good standing. If you look at all of the
13 complaints, I would not consider they're good standing for
14 Texas standards.

15 So -- and let me explain to you. These remedial
16 orders apply in out-of-state placements as to safety. Now
17 who exactly examined this place before placements were made?
18 Physically.

19 MS. BONACQUISTI: That would be the responsibility
20 of the State Office Placement Division under CPS.

21 THE COURT: Okay. Well, find out who that was and
22 get him in here. Who physically examined this place before
23 a child from Texas was placed there.

24 (Pause in the proceeding.)

25 THE COURT: Hello?

1 MS. BONACQUISTI: Well, so, Your Honor --

2 THE COURT: Uh-huh.

3 MS. BONACQUISTI: -- we have been placing kids at
4 this facility under previous leadership. And so I believe
5 that the people who initially started placing kids in this
6 facility are no -- no longer work for the Department.

7 However, the Associate Director of Placement
8 did -- has visited this facility. Most recently she visited
9 the facility earlier this year. We have followed-up with
10 the facility regarding the concerns. Michigan licensing is
11 investigating the allegations.

12 And so far, none of the allegations have been
13 substantiated.

14 THE COURT: That's -- that's actually not true.
15 But secondly, put that person on the phone that went to --
16 went to the person -- went to the personal visit, in-person
17 visit.

18 MS. BONACQUISTI: Your Honor, she is not
19 available. The Associate Director of Placement is currently
20 on a plane traveling. She is currently conducting another
21 out-of-state site visit today.

22 THE COURT: Okay. You need to know, by the way,
23 Ms. Masters and your people who are putting these placed
24 children, these Texas children in these awful places, that
25 your people never go inside any -- any further than the,

1 according to the staff and according to the children, they
2 never go any further than the front office where they
3 interview the children and leave.

4 Did you know that?

5 MS. MASTERS: No, Your Honor. I did not know
6 that. That was not --

7 THE COURT: They do not go on the kids' units.
8 This is not a licensing issue that belongs to Michigan.

9 This is a placement issue that belongs to you.
10 You are the parent of this child -- of these children. And
11 you need to act like it.

12 MS. MASTERS: So, Your Honor, if I may, I'm being
13 told that is incorrect that that is -- that that is how it
14 happens.

15 MS. BONACQUISTI: Your Honor, when State office
16 placement does visit an operation, we do site visits. We do
17 walk-throughs. We complete unannounced visits, as well as
18 announced visits.

19 And so --

20 THE COURT: So who did the last unannounced and
21 announced visit to this place in Michigan?

22 MS. BONACQUISTI: It was the Associate Director of
23 Placement, who is unfortunately unavailable today. But we
24 do have a summary of her visit and some additional
25 supporting documentation that addresses the concerns that

1 the Monitors indicated in their Report.

2 And we can provide that.

3 THE COURT: Who have you -- who have you provided
4 to?

5 MS. BONACQUISTI: I have provided it to our foster
6 care litigation team.

7 THE COURT: Well, you really need to provide that
8 to the Monitors so they can verify it.

9 MS. BONACQUISTI: Yes, and I --

10 THE COURT: Ms. Fowler -- Ms. Fowler, what was
11 your information when you went to the Evart or --

12 MS. FOWLER: Well, yeah. So we asked the -- we --
13 when we interview children, we ask them if their
14 caseworkers, when they visit, if their caseworkers walk
15 through their units and see their bedrooms. And -- and all
16 of the children told us that they meet with the -- their
17 caseworkers in the office at the facility. And that the
18 caseworkers do not -- had not seen the units or their
19 bedrooms.

20 THE COURT: And you've got pictures of those units
21 and bedrooms in the Report?

22 MS. FOWLER: Oh, I mean, I think -- I hope that
23 the pictures speak for themselves. But honestly, the truth
24 is that -- that was -- it was a really a grim situation in
25 several of the units there.

1 And I think, hopefully, you can see that from the
2 pictures. But it's always more startling in person.

3 MS. BONACQUISTI: Yeah, Your Honor. If I may, the
4 facility was undergoing some enhancements at that time in
5 that specific unit because there was some damage to the
6 beds, the furniture. And it needed to be removed for
7 children's safety. And so we have documentation confirming
8 that the operation has purchased all new furniture.

9 I believe that a lot of the furniture is there.
10 But they're still waiting on the carpet to be replaced. But
11 they have provided that documentation there.

12 THE COURT: Well, isn't that -- isn't that
13 fortuitous and timely?

14 (Pause in the proceeding.)

15 THE COURT: Are you -- are you that ridiculous in
16 actually thinking that that's the case that this is -- this
17 is suddenly happening? That the furniture was damaged
18 unbeknownst to you all? You put children in a place with
19 damaged furniture?

20 MS. BONACQUISTI: Your Honor, I believe that --
21 that the furniture was damaged after the youth were placed
22 in the facility.

23 THE COURT: Really? Now why do you think they're
24 suddenly replacing everything?

25 MS. BONACQUISTI: From my understanding, they had

1 plans. And we've had discussions with them about them
2 remodeling and doing enhancements to the facility starting
3 back in November.

4 (Pause in the proceeding.)

5 THE COURT: As soon as actually -- when exactly
6 did you notify them that the Monitors, per my instructions,
7 the Monitors would be making unscheduled visits to all of
8 these out-of-state places? When -- when was that? When did
9 that happen, Ms. Masters?

10 MS. MASTERS: I don't know that we gave any
11 facility a heads-up that the Monitors would be making
12 unscheduled visits.

13 THE COURT: Well, you -- you had to. Because I
14 told you to let -- to let them know that they would be
15 coming, not when, and not where. And to make sure that they
16 had complete access to your facilities.

17 That was my instruction to you. And that was
18 done. Do you know what date that occurred?

19 MS. MASTERS: I don't. Jillian, do you know?

20 MS. BONACQUISTI: I don't know the specific date,
21 but we can get that for you.

22 (Pause in the proceeding.)

23 THE COURT: Ms. Fowler, do you remember? Because
24 you all got a copy of the letter when it -- when you --

25 MS. FOWLER: Judge, I still have the paperwork in

1 my briefcase. So I just pulled it out. Let me see if I can
2 find a date on the email. It looks like it was sent --

3 (Pause in the proceeding.)

4 MS. FOWLER: -- November, I want to say this looks
5 like November 1st of this year.

6 THE COURT: And oddly enough, subsequent to that,
7 they entered into conversations with DFPS about remodeling.

8 (Pause in the proceeding.)

9 THE COURT: Isn't that incredible? Are you all
10 that easily tricked? Or you just don't care about these
11 children?

12 That's a rhetorical question. I don't expect an
13 answer. I think I have one.

14 Go ahead, Mr. Yetter.

15 MS. FOWLER: Judge, I also want to just, I mean,
16 we -- they -- when we visited, they -- they told us that
17 they were working on the former secure units that was --
18 children were not housed in.

19 But we were certainly not told of any remodeling
20 that they were doing, or that they were purchasing new
21 furniture, or you know, that -- that was not in -- what
22 staff conveyed to us during our visit.

23 THE COURT: I imagine that was the case.

24 Mr. Yetter, go ahead.

25 MR. YETTER: Certainly. So let's move on from

1 children's rooms that look like juvenile cells. And let's
2 not talk about furniture anymore.

3 Let's talk about what the Monitors documented at
4 the facility about complaints of staff bullying the
5 children, the chaotic environment, staff having
6 inappropriate conversations with the children about their
7 sexual encounters, leaving the children without heat for 24
8 and 48 hours at a time, and -- or without a door.

9 Commission Masters, this is from the Court
10 Monitors' team. It has been carefully documented. What is
11 DFPS going to do about this?

12 MS. MASTERS: I think everything that I'm hearing
13 is extremely concerning. You know, it -- obviously, the
14 children need to be moved.

15 THE COURT: Yes. And I appreciate you saying
16 that, Ms. Masters. Because sometimes these CYA efforts are
17 not well received by the Court. And I see that that is not
18 happening here. And I appreciate it.

19 Go ahead, Mr. Yetter.

20 MR. YETTER: And I -- let me just -- can I finish
21 the picture here at --

22 THE COURT: Yes.

23 MR. YETTER: -- Evart is not just a prison
24 environment. It's not just a staff chaotic and
25 disorganized, and inappropriate staff comments. It's

1 physical restraints that are hurting the children.

2 And Commissioner Masters, if you haven't read the
3 Report, and this -- and this part of it, it is -- you need
4 to read it. Because the children are being hurt by the
5 staff, being put into inappropriate and harmful, physical
6 restraints. And it's being -- and it's documented by the
7 Court Monitors.

8 So I would invite you to read that. And
9 obviously, I would like to assume that that concerns you as
10 well, Commissioner Masters.

11 MS. MASTERS: It does concern me.

12 It sounds like I need to go to Michigan myself.

13 MR. YETTER: These are Texas children that we've
14 sent to Michigan. And they're being hurt hundreds of miles
15 away from our State. And we should take responsibility for
16 them, shouldn't we, Commissioner Masters?

17 MS. MASTERS: I take responsibility for
18 everything.

19 (Pause in the proceeding.)

20 MR. YETTER: One last issue that -- and this
21 relates to the Expert Panel Report. And it makes a
22 reference on page 7. Have you read the Expert Panel Report,
23 Commissioner Masters?

24 MS. MASTERS: Yes, I have.

25 MR. YETTER: And it makes a reference to HHSC and

1 DFPS establishing exit criteria to heighten monitoring that
2 will be shared with providers this month, January 2022.

3 Now you understand, Commissioner Masters, that the
4 entire regime of heightened monitoring is a subject of order
5 of this Court. It's not voluntary. It's not consensual.
6 It is a remedial order of this Court.

7 Do you understand that, Commission Masters?

8 MS. MASTERS: Clearly.

9 MR. YETTER: And there is specific guidelines for
10 when a facility that has been put on heightened monitoring
11 can exit. It details specific guidelines for when they can
12 exist heightened monitoring, Commissioner Masters.

13 MS. MASTERS: Yes.

14 (Pause in the proceeding.)

15 MR. YETTER: So you -- no -- neither agency is
16 entitled to develop any of its own new, quote, "exit
17 criteria." You agree with that, don't you, Commissioner
18 Masters?

19 MS. MASTERS: I don't have any questions about
20 that, Mr. Yetter. I found out about this document from this
21 Report. So I have not been a party to this.

22 MR. YETTER: All right. So do you know who within
23 your organization was, evidently, working on putting
24 together so-called exit criteria for heightened monitoring
25 that's subject to Court Order?

1 MS. MASTERS: So the way I read this Report is
2 this information was provided by HHSC and not DFPS.

3 I have understood that there were DFPS staff
4 working with HHSC on this. But I cannot speak to the
5 document.

6 MR. YETTER: Can you find out who was on your
7 staff that was working on these so-called exit criteria
8 that --

9 MS. MASTERS: Sure, I can -- I can find out who
10 was working with them.

11 MR. YETTER: And are you going to tell them
12 clearly that this is not a matter for them to decide. This
13 is a matter of Court Order?

14 MS. MASTERS: So think my same statement. This is
15 already clear in DFPS.

16 There is nothing else to reiterate. There are no
17 changes to heightened monitoring being made here. That's
18 already clear.

19 (Pause in the proceeding.)

20 MR. YETTER: All right. Those are all the
21 questions, Your Honor, I have on what we've already covered
22 so far.

23 THE COURT: All right. Thank you.

24 You want to move on to the Monitors' Third Report?
25 I'll let you highlight whatever you think is important. And

1 if I find anything missing, I'll talk to you about it. I'll
2 say it as we go along.

3 You know how shy and retiring I am.

4 MR. YETTER: Thank you, Your Honor. Yes, we do,
5 Your Honor.

6 Again, I'd like, Commissioner Masters, I'd like --
7 I'd like to continue with you. The Third Report of the
8 Monitors, which is Docket Number 1165. It was filed
9 yesterday. But there was a copy given to both of the
10 agencies some time ago.

11 Have you read the Third Report of the Monitors?

12 MS. MASTERS: Yes.

13 (Pause in the proceeding.)

14 MR. YETTER: I'm sorry, I -- you --

15 MS. MASTERS: Yes.

16 MR. YETTER: -- you broke up on my end.

17 MS. MASTERS: Yes, I have. I have reviewed this.

18 MR. YETTER: All right. I want to focus on one
19 area in particular. It covers a number of -- as the
20 Monitors have done in all of their Reports, it covers --
21 covers a number -- number of important areas.

22 But I want to focus on caseload for caseworkers.
23 We've talked many times about this, Commissioner Masters,
24 and you'll agree that caseworkers are a vital safety
25 guardian of these foster children, right?

1 MS. MASTERS: Yes.

2 MR. YETTER: And if the caseworkers are
3 overloaded, they cannot do their job. And the children are
4 put at risk of their own safety. True?

5 MS. MASTERS: Yes.

6 MR. YETTER: The expert Report has -- Expert
7 Panel's Report noted that overloaded caseworkers are not
8 able to spend the time, especially with these children that
9 are being placed in unlicensed placements. You read that,
10 didn't you?

11 MS. MASTERS: Yes.

12 (Pause in the proceeding.)

13 MR. YETTER: Before you became Commissioner, the
14 parties, DFPS and -- agreed, and the Court ordered that it
15 would ensure that its case -- conservatorship caseworkers
16 would meet a standard -- a certain -- a caseload standard of
17 14 to 17 children per caseworker. You understand that;
18 don't you?

19 MS. MASTERS: I do.

20 MR. YETTER: And that was two years ago. And the
21 Court approved that agreed motion December 16th, 2019,
22 right?

23 MS. MASTERS: Yes.

24 MR. YETTER: And the State, DFPS is nowhere close
25 to meeting that standard with its caseworkers, at least with

1 a large segment of its caseworkers.

2 MS. MASTERS: That is correct.

3 MR. YETTER: In fact, according to the third --
4 the Monitors Third Report, some 40 percent of DFPS
5 caseworkers have -- are in violation of that standard, have
6 18 or more children that they are responsible for. True?

7 MS. MASTERS: Yes.

8 MR. YETTER: And that doesn't count the extra
9 shifts that the caseworkers are having to put -- put in
10 every week and every month on children in unlicensed
11 placements, right?

12 MS. MASTERS: Correct.

13 (Pause in the proceeding.)

14 MR. YETTER: And it isn't much -- it isn't much
15 better between DFPS and the SSCCs that you have outsourced
16 certain operations, is it, the rate of compliance with the
17 caseload standard.

18 MS. MASTERS: I don't have the exact numbers in
19 front of me. But I would assume it's similar.

20 MR. YETTER: Yeah. So it is on average 40 percent
21 of the DFPS caseworkers have -- are in violation of the
22 standard. And it's roughly the same, 40 percent of the
23 caseworkers for the -- for the two SSCC's or more are out of
24 compliance.

25 (Pause in the proceeding.)

1 MR. YETTER: I'm looking page 106 and 107. Did
2 you know that, Commissioner Masters?

3 MS. MASTERS: Not at -- yes. Yes. I did.

4 (Pause in the proceeding.)

5 MR. YETTER: I'm sorry. I didn't catch your --
6 I'm having --

7 Your Honor, I apologize. I'm having me some
8 technical issues.

9 I didn't catch your answer Commissioner Masters.

10 MS. MASTERS: Yes.

11 MR. YETTER: All right. So what is -- how is
12 the -- and this is a Court Order. This is now two years
13 after the standard was agreed. We are two and a half years
14 after the remedial went into effect. What specific steps is
15 DFPS going to undertake in the near term to get in
16 compliance with the standard?

17 MS. MASTERS: Well, I think many of the options
18 that have been provided in the Expert Panel Report will be
19 very helpful in us addressing that.

20 MR. YETTER: Did you see anything in the Expert
21 Panel Report, Commissioner Masters, that you believe is
22 impossible for DFPS to adopt and pursue?

23 MS. MASTERS: Well, I don't know that -- I don't
24 know that anything's impossible.

25 MR. YETTER: Is there anything in the Expert Panel

1 Report that you personally believe is ill-advised for DFPS
2 to pursue?

3 MS. MASTERS: No.

4 MR. YETTER: Based on your review of the Expert
5 Panel Report, did you find that the recommendations that
6 were made by these three imminent, independent experts are
7 reasonable and important steps for the State to take to
8 protect the safety of these children?

9 MS. MASTERS: Yes.

10 (Pause in the proceeding.)

11 MR. JONES: Your Honor, can we comment just on
12 that? Can we just kind of --

13 MR. SPEAKER: No. There's a lot of people in
14 there.

15 (Pause in the proceeding.)

16 MR. YETTER: Your Honor, I'm -- let me -- I'd like
17 to pause for one second on this caseload compliance. This
18 is a significant issue. The -- from the day of the trial to
19 today, caseworkers have -- have clearly been recognized by
20 the Court and by every witness as vital to the safety of
21 these children.

22 The State has agreed to standards two years ago.
23 They're not close -- they've not meeting the standards with
24 40 percent of the caseworkers. This is a very significant
25 issue to, we believe, on behalf of the children. And unless

1 the State comes up with a plan to fix this and there is --
2 and there is improvement immediately, we will be petitioning
3 the Court for contempt relief to ensure that this gets done.

4 THE COURT: I understand that. And I would expect
5 it.

6 (Pause in the proceeding.)

7 MR. YETTER: Your Honor, that was a -- that was
8 the -- that was the area in the third Monitors' Report that
9 we wanted to focus on, the one that concerned us the most.

10 There's obviously lots in the Report. But the
11 caseload failures, and the violations of the standard are --
12 is what we are most concerned about. I -- if we -- if I may
13 me ask one other question of Commissioner Masters?

14 Commissioner Masters, when will you be able to get
15 to the Court and to the Court Monitors the plan that DFPS
16 will implement quickly in order to get the casework --
17 caseworker or caseloads in compliance with the standard?

18 MS. MASTERS: I think all of that will be part of
19 that response that I'm going to have within 90 days.

20 (Pause in the proceeding.)

21 MR. YETTER: Thank you, Commissioner.

22 Those are all the questions I have on that issue,
23 Your Honor.

24 THE COURT: All right. Keep going.

25 (Pause in the proceeding.)

1 MR. YETTER: Those are the questions I have on the
2 Third Report, Your Honor.

3 THE COURT: Commissioner Masters, do you have any
4 questions on the Monitors' findings?

5 MS. MASTERS: I do not.

6 THE COURT: Commissioner Young?

7 MS. YOUNG: No, Your Honor.

8 THE COURT: Let me just review my notes on this
9 before we go.

10 (Pause in the proceeding.)

11 THE COURT: Previously the unlicensed placements,
12 you had not required them to post posters with hotline
13 numbers and their -- and their rights, foster care rights.
14 Have you done that now, Ms. Masters?

15 MS. MASTERS: I believe that is done.

16 (Pause in the proceeding.)

17 THE COURT: What has happened with the SSCC's
18 training program for caseworkers that was insufficient? I
19 mean, we had an Order that the Order is clear that it's got
20 to -- it's got to be a -- the state-wide order -- the state-
21 wide implementation of the CPS Professional Development
22 Training Model, which you began to implement in November of
23 2015. And it turns out that your SSCCs are not doing that.

24 What's going on with that, Ms. Masters?

25 MS. MASTERS: I think I need to bring our training

1 director in to speak to that.

2 THE COURT: Okay.

3 (Pause in the proceeding.)

4 MR. MADRIL: Hello.

5 (Pause in the proceeding.)

6 MR. MADRIL: Yes, Your Honor. My name is Brock
7 Madril. I'm the Director for Training at DFPS.

8 (Pause in the proceeding.)

9 THE COURT: Okay. Do you want me to repeat the
10 question?

11 MR. MADRIL: Yes, would you please?

12 THE COURT: Sure. There is a standard training
13 program for caseworkers. And apparently, yes -- and
14 apparently, the SSCCs were not using that program, or were
15 abbreviating the program.

16 So what have you done to correct that?

17 MR. MADRIL: Well, in March we trained three
18 cohorts for OCOK and Two Engaged to give them five months to
19 stand up the infrastructure to implement that program.

20 THE COURT: All right. Have you asked them to
21 retrain the ones that they insufficiently trained?

22 MR. MADRIL: No, ma'am. I don't know if they had
23 any remedial efforts to retrain those that weren't trained
24 originally.

25 THE COURT: Well, I don't care what they have.

1 What are your -- you all are in charge of this. You know,
2 you're the -- you're the parents of these children. You're
3 the remedial order recipients.

4 What have you done to make sure these caseworkers
5 are properly trained?

6 MR. MADRIL: Well, we've given them all of our
7 content. We've trained their trainers. And we have a
8 resource transfer that gives them FTE's to implement that
9 training.

10 They're well aware of our expectations within
11 their staff. And we've given them five months to stand up.
12 And it's my understanding that they're moving forward.

13 I do think that they are submitting training
14 records to the Court just as we do.

15 THE COURT: They're submitting to the Monitors,
16 therefore to the Court.

17 But here's -- here's the issue. There are
18 caseworkers now that didn't have the training order that
19 I -- training that I ordered. So what are you doing about
20 that? This is an easy question.

21 (Pause in the proceeding.)

22 MS. MASTERS: Your Honor, if -- I will address
23 that with the SSCC and we will get that taken care of.

24 THE COURT: Okay. Give me a date where you can
25 get that -- get a response to the Monitors. How about two

1 weeks, a response to the Monitors on when that training is
2 going to be completed.

3 MS. MASTERS: Yes.

4 THE COURT: The additional training. Okay?

5 MS. MASTERS: Yes, Your Honor.

6 (Pause in the proceeding.)

7 THE COURT: And the caseloads are still not
8 conforming. And we've talked about that. Mr. Yetter's
9 talked about that. But I am also very concerned.

10 (Pause in the proceeding.)

11 THE COURT: I notice that in Texas for the PMC
12 children that 67 percent of the children are African-
13 American or Hispanic. I also read this strange article in
14 the *Dallas Morning News* about the Commissioner Masters
15 stopping some cultural sensitivity training.

16 What is that about?

17 (Pause in the proceeding.)

18 MS. MASTERS: Yes. We no longer provide the
19 knowing who you are training. It's no longer required for
20 promotion.

21 THE COURT: And why is that? Isn't that a
22 national standard?

23 MS. MASTERS: Yes, that is a training that we
24 are -- we are currently reviewing right now.

25 THE COURT: So why did you stop it?

1 MS. MASTERS: Because it needed to be reviewed.

2 THE COURT: Well, who's reviewing it?

3 MS. MASTERS: I am reviewing it with our training
4 staff.

5 THE COURT: Well, isn't -- I thought that this was
6 a national -- a nationally approved program. What exactly
7 did you need to -- why'd you stop it to review it?

8 MS. MASTERS: There -- there's been some content
9 that was brought to our attention that we needed to look
10 into. So it's --

11 THE COURT: What content -- what content was that?

12 MS. MASTERS: I can't say exactly, Your Honor,
13 because I haven't had the time to sit down and go through
14 it.

15 THE COURT: Well, but it was your order that
16 stopped it being administered, right?

17 MS. MASTERS: That is correct.

18 THE COURT: And so you don't even have the facts
19 on why that happened?

20 MS. MASTERS: That's really -- that's really all I
21 can offer at this time.

22 THE COURT: Have you seen that -- have you seen
23 that training?

24 MS. MASTERS: I have not.

25 (Pause in the proceeding.)

1 THE COURT: And you don't know the -- what the
2 bad -- what the objected-to content was, but you stopped it
3 anyway?

4 MS. MASTERS: No. I don't have the specifics.
5 So, yes, Your Honor. That's correct.

6 THE COURT: Well, how long is that going to be
7 under review? And who would -- who would be reviewing it?

8 MS. MASTERS: I don't have a time frame at this
9 time.

10 THE COURT: Who's reviewing it?

11 MS. MASTERS: I am, along with our training staff.

12 (Pause in the proceeding.)

13 THE COURT: And --

14 (Pause in the proceeding.)

15 THE COURT: -- do you have any way of determining
16 the percentage of minority children, or under-represented
17 groups, that are in family settings compared to non-Hispanic
18 and non-Asian or African-American children?

19 MS. MASTERS: Yes, Your Honor. That's data we can
20 pull.

21 THE COURT: Okay. Can you supply that to the
22 Monitors, please?

23 MS. MASTERS: Yes.

24 (Pause in the proceeding.)

25 THE COURT: Have you started the implementation of

1 a formal mentoring program between the tenured investigators
2 and the new workers?

3 MS. MASTERS: We have a mentor program that we've
4 had since before I came here.

5 THE COURT: Okay. And the state-wide intake
6 performance. I want to ask about the SWI calls.

7 MS. MASTERS: If we can bring Steve in.

8 THE COURT: We've got 20 percent of those are
9 being abandoned. And that the response time, or -- that's
10 getting the percentages of dropped, not -- not abandoned
11 calls, but the percentages of responded-to calls have gotten
12 lower than the last Report.

13 Do you know what's behind that?

14 MS. MASTERS: Steven Black, our state-wide intake
15 Associate Commissioner has just come into the room.

16 MR. BLACK: Yes, ma'am. It's been increased in
17 volume since school has returned. Both it's in person and
18 at all.

19 THE COURT: Do you have any way -- I'm going to --
20 I can't keep circling around -- back around to the vaccine
21 issue.

22 Do you have any way of checking to see if -- what
23 percentage of the at-risk children -- I mean, we have some
24 children that are critically ill with cerebral palsy and all
25 kinds of other things, whether -- what percentage of those

1 children have been vaccinated?

2 (Pause in the proceeding.)

3 MS. MASTERS: You can just tell her what --

4 MS. BANUELOS: Oh. Your Honor, yes. We can pull
5 a list of our children that are PMN that have critical
6 needs. And figure out whether or not they've been
7 vaccinated.

8 THE COURT: How do you find that out by the way?
9 Where do you look?

10 MS. BANUELOS: We would look to see -- in our
11 IMPACT system we do have an ability to see what child has
12 been designated as a PMN child that has some critical needs.
13 And then we would go to where they're currently placed and
14 follow-up with -- well, we can follow-up with the foster
15 parents. But we can also do a record match with DHS who has
16 the records of who's been vaccinated.

17 So it's a cross-match between them and us.

18 THE COURT: And how long will that take, do you
19 think?

20 (Pause in the proceeding.)

21 MS. BANUELOS: I couldn't say. I would -- we
22 could put in the request immediately. And we would ask them
23 to expedite it as soon as possible so that we would get that
24 back to you. So maybe in a few weeks.

25 THE COURT: It takes weeks to find out what

1 children are vaccinated in your -- in your care? You're the
2 parents.

3 MS. MASTERS: Is that data is held in Dishes
4 (phonetic) system, I think we can't speak for them on how
5 long it would take then to give it to us. So you could --
6 you could let us check. And we'll get back to the Monitors
7 right away.

8 THE COURT: I'm sorry. I guess the point is you
9 don't have it in your system anywhere when children are
10 vaccinated?

11 MS. BANUELOS: Not in our IMPACT system
12 specifically, no.

13 THE COURT: And the PMN children are not -- don't
14 include asthmatics, do they?

15 MS. BANUELOS: No, not always.

16 THE COURT: So you -- we need to -- you need to do
17 a deeper search.

18 MS. BANUELOS: Yes, Your Honor. We will.

19 (Pause in the proceeding.)

20 THE COURT: When they're not quite 10,000 children
21 in PMC and less than 25 percent are vaccinated. So you do a
22 computer check of what 2500? And see if they're -- never
23 mind. This is -- it's not going to work for you.

24 But please get it done as soon as you can.

25 (Pause in the proceeding.)

1 THE COURT: And, you know, when these
2 investigations of the RCCI involving PM children in licensed
3 placements, 39 of the ones that the Monitors determined were
4 inappropriately conducted or resolved were not completed in
5 a timely manner.

6 I'm not understanding why you all are not placing
7 yourselves in these -- in this kind of thing. Why are we
8 looking at this in the Monitors' Report instead of you
9 saying -- doing something about it yourselves?

10 MS. MASTERS: Your Honor --

11 THE COURT: Do --

12 MS. MASTERS: -- I believe Justin has addressed
13 that. But he's walking in now. And he can answer that.

14 THE COURT: So do you have some kind of computer
15 app or something that lets you know when these things are
16 untimely?

17 MR. LEWIS: Yes, ma'am.

18 THE COURT: Well, what are you doing with it?

19 MR. LEWIS: We get Reports, put this into -- let
20 me break this into two parts.

21 The cases that were looked at the Monitors this
22 time in this Monitor Group Report were done up until June.
23 Those cases were all severely over-due when I came in.

24 What we have in place now, we have multiple levels
25 of oversight on our cases. We have added extra staffings to

1 keep -- to focus on the front end of the case, instead of
2 getting to the back end of a case and realize --

3 THE COURT: Do you have a computer thing that'll
4 alert you when the -- an investigation is -- hadn't been
5 completed?

6 MR. LEWIS: Yes, ma'am.

7 THE COURT: Well, what do you do about it?

8 (Pause in the proceeding.)

9 MR. LEWIS: When we find out that a case hasn't
10 been completed, what are we doing about it?

11 THE COURT: In a timely fashion. Now there -- I
12 have ordered that these have to be done in "X" amount of
13 days, absent an extension, an approved extension.

14 Almost none of these had any approved extensions,
15 or even request for extensions. So what did your app
16 actually show you? That it's 20 days out? That it's
17 10 days out? What --

18 MR. LEWIS: No, ma'am. It shows -- it shows when
19 -- the print-out that we get or the -- print-out -- the
20 electric file that we get tells us how many cases are over-
21 due.

22 THE COURT: How many cases are over-due at this
23 moment?

24 MR. LEWIS: Twelve throughout the whole State.

25 And most of those are because they were returned

1 back to the worker for corrections because they were not --
2 there was something lacking.

3 (Pause in the proceeding.)

4 THE COURT: So you have only 12 over-due RCCI
5 inspections -- sorry, investigations, that are over-due?

6 MR. LEWIS: And of this morning, yes, ma'am.

7 THE COURT: And how many of those had approved
8 extensions?

9 MR. LEWIS: I don't know that information.

10 THE COURT: Okay. Since you've got that in a
11 computer print-out, send that by noon tomorrow to the
12 Monitors, a list of those investigations with the names and
13 the PMC status.

14 MR. LEWIS: Yes, ma'am.

15 (Pause in the proceeding.)

16 THE COURT: So what do you do when you find out
17 that they're not -- they're overdue.

18 MR. LEWIS: What we do now is we have set up a
19 process to where when we realize that a case has gone
20 overdue, the supervisor will counsel with the worker, find
21 out what's happened.

22 We set that worker on a work plan to work through
23 and get that case caught up immediately and done as soon as
24 we can. They're put on a work plan for 30 days. It's kind
25 of a develop -- it's -- I don't want to use the word

1 "developmental" because that is part of our progressive
2 discipline process.

3 But that very first one we now sit with the worker
4 and figure out why did this case go over. Is it case
5 management issues? Did their -- did it qualify for an
6 improved extension, you just didn't request it?

7 We look to see if things had been asked by the
8 supervisor through the life of the case. Did the supervisor
9 keep up with the case and the progress of it? We do a
10 holistic view, a holistic look at the case and tailor the
11 teaching at that moment for that specific case.

12 If it goes forward and we have more delinquent
13 cases from that worker, that worker -- that investigator
14 enters the progressive discipline process. So we're setting
15 in the training when they first get hired. Then when
16 they're put out to work the cases, if they start having
17 problems, we address those problems. After we address those
18 problems, if they still cannot get these cases done in a
19 timely manner, then we go through that progressive
20 discipline process to either fix the problem or relieve the
21 employee of their investigative duties.

22 THE COURT: Okay. Well, I know in my Remedial
23 Order Five, for instance, there's the priority one
24 allegations are to be -- have a face-to-face within the
25 first 24 hours.

1 MR. LEWIS: Yes, ma'am.

2 THE COURT: And 19 percent of those were not done
3 in a timely fashion. So what are you doing about that?

4 MR. LEWIS: In June, I started a tracking and
5 analysis of all of face-to-face contacts missed. And the
6 purpose of that was to identify misses that were within our
7 control, things that we either just didn't make it out there
8 or something that we had control over.

9 There are certain times we'll -- we can't control
10 whether they make -- make face-to-face contact with them or
11 not.

12 THE COURT: Well, such as when you can't find the
13 child, but what other excuses?

14 MR. LEWIS: Well, if the child's on runaway. If
15 the child has gone back to their parents and their parents
16 refuse to let us talk to them.

17 If they're an unknown victim. A lot of times we
18 get cases called in with an unknown victim. So while we're
19 trying to identify who the victim, if that time frame
20 lapses, once we identify who the victim is, we get dinged
21 twice.

22 'Cause as soon as we enter that name into the
23 system, we have a miss for the unknown and we have a miss
24 for the person once we've identified them.

25 For misses that we did have control over, they

1 will follow the same process as untimely investigations.

2 (Pause in the proceeding.)

3 THE COURT: So 21 percent -- also my Order said
4 that within 24 hours of an investigation of a Priority One
5 Reports must be -- the investigation must be initiated
6 within 24 hours. And around 25, little less than 25 percent
7 were not timely.

8 What are you -- what are you doing about that?

9 MR. LEWIS: The same thing as the face-to-face.
10 Initiation for us is only occurs when all face-to-face
11 contacts have been made with all potential child workers.
12 So the same process, Your Honor.

13 THE COURT: Well, in fact, none of these -- none
14 of these had anywhere near an 80 percent even --

15 (Pause in the proceeding.)

16 THE COURT: -- timely. None of the Priority Ones
17 or Twos. And the extensions for the ones that were not
18 timely were less than 10 percent.

19 (Pause in the proceeding.)

20 THE COURT: So this is not a good record. And
21 this is an ongoing problem.

22 Do you anticipate ever solving this or do we just
23 hold you in contempt?

24 MR. LEWIS: No, ma'am. A lot of the problem at
25 that point in time was the massive case backlog. The case

1 backlog was resolved.

2 And since then we have been keeping the overdue
3 cases to a minimum. We have put in place steps to increase
4 efficiency and increase timeliness, add accountability.

5 When I got here and began to look at things, I
6 noticed pretty quickly that there were two -- two areas that
7 needed major attention. And that was quality of the
8 investigation and the timeliness of the investigation.

9 I focused on the quality first. Because without
10 quality, you can have a timely investigation, but if you're
11 not investigating the right things, asking the right
12 questions, talking to the right people, doesn't matter how
13 quickly you get the investigation done. It's going to be so
14 hard.

15 So we focused on that originally through the
16 summer and through the first part of the fall. And now
17 we're working on focusing on the timeliness aspect. A lot
18 of those efforts to focus on timeliness deal with focusing
19 efforts on the front end of the case, not waiting till the
20 middle part of the case, or the latter part of the case to
21 realize you have 13 different things that still need to be
22 done in part of the investigation.

23 So we're moving that to the front end so those
24 things get caught quicker. We're looking at, for cases that
25 going to need an extension. 'Cause there are cases that

1 will need extensions. We're looking at that sooner to make
2 sure that that gets put into place and it doesn't get
3 missed.

4 THE COURT: Do you have an alert system for all
5 these things now?

6 MR. LEWIS: We have, it's not an automated alert
7 system. We have proscribed times that the supervisor has to
8 staff the case with the worker. They have to staff it.

9 THE COURT: What's the problem with getting an
10 automated alert? Is that difficult?

11 (Pause in the proceeding.)

12 MR. LEWIS: That's an IT issue. I can't answer
13 that. I can't speak to that. But I --

14 THE COURT: If you look into it? Wouldn't that be
15 helpful for you?

16 MR. LEWIS: Yes, ma'am, it would be very helpful.

17 But absent that, we set up static points in the
18 timeline of that 30 days that we have to have check-ins on
19 the case at this day, at -- when the case is assigned out,
20 before they leave the -- before the investigator leaves the
21 facility. They have to have one at day 10, at day 20 and at
22 day 25.

23 So before it was at the beginning, day 10 and
24 day 25. So we've added two extra slots in the life of the
25 case to have oversight of it.

1 THE COURT: Can I recommend that you add some kind
2 of slot to comply with my Orders? That would be even more
3 helpful.

4 MR. LEWIS: Well, that's a good point.

5 THE COURT: Or I'm going start -- I'm going to
6 start holding you all in contempt. This is just dragging on
7 way too long for you all to hem and haw about why you're not
8 able to comply.

9 (Pause in the proceeding.)

10 THE COURT: And I understand the caseworker can
11 now -- when the -- when complaints are made about children
12 in care, that abuse and neglect complaints, that the
13 caseworker can now look at the substance of the allegation
14 without any problems.

15 Is that right, Ms. Masters?

16 MS. MASTERS: Yes.

17 (Pause in the proceeding.)

18 THE COURT: I just -- a question about one of the
19 children that's in the appendices, the child that's placed
20 in New Mexico. And there was an abuse and neglect.

21 What was wrong with the investigation of that,
22 Ms. Masters, do you know?

23 MS. MASTERS: I do not. Do you want to be able to
24 speak to that?

25 (Pause in the proceeding.)

1 THE COURT: It was recommended the case be closed
2 without investigation?

3 (Pause in the proceeding.)

4 MS. MASTERS: Who can speak to that?

5 MR. ORTIZ: I can.

6 (Pause in the proceeding.)

7 MR. ORTIZ: Good afternoon, Your Honor. Hector
8 Ortiz.

9 THE COURT: That you, Mr. Ortiz.

10 MR. ORTIZ: There was an investigation that was
11 Priority None in New Mexico on a relative where we had a
12 child from the Lubbock area or Amarillo area.

13 THE COURT: See, I don't know why there was abuse
14 none, they didn't have health insurance or they didn't take
15 the child to the -- three-year-old to the doctor.

16 MR. ORTIZ: I believe the concerns were with
17 the -- with the aunt who was ill at the time of the intake.
18 There was concerns that the other children that were placed
19 in the home by New Mexico were abusing the children at
20 the -- one of the -- one of the siblings to our child had
21 faced a battery in the child in the mouth. And there was --
22 there was concerns with the aunt not providing adequate care
23 for that child.

24 (Pause in the proceeding.)

25 MR. ORTIZ: So New Mexico Priority None. And

1 that -- and INR was called in to Texas. And the worker and
2 supervisor worked with New Mexico to resolve any concerns
3 that they had with the home.

4 THE COURT: So that child -- that home has still
5 -- have foster children in it?

6 MR. ORTIZ: They -- we still have our child placed
7 in the home. And they do -- New Mexico has two children who
8 are sibling to our child.

9 (Pause in the proceeding.)

10 THE COURT: So I'm not understanding why you all
11 did not -- you all did not -- why you all did not
12 investigate this yourselves.

13 MR. ORTIZ: Because the intake -- or the
14 allegations happened in New Mexico. So --

15 THE COURT: Well, you're the parent of the child.
16 And you put the child in New Mexico.

17 MR. ORTIZ: Correct.

18 THE COURT: So it had nothing to do with
19 licensing. I can understand that that would have to be done
20 in New Mexico. But this is -- this is your placement.

21 MR. ORTIZ: Right. So --

22 THE COURT: And if you can't -- if you can't
23 investigate -- if you don't think you've got the authority,
24 or the wherewithal, or the money, to investigate an out-of-
25 state placement, don't put the children out-of-state.

1 (Pause in the proceeding.)

2 THE COURT: Okay. Now OCOK and Remedial Order
3 Number One, CPS professional development, OCOK did not
4 provide reliable information, or reliable data to the
5 Monitors in time for an assessment -- in time for assessment
6 of their professional development program.

7 What was -- what happened with that, Mr. Carson?

8 MR. CARSON: Thank you, Your Honor.

9 We weren't aware that information had been
10 requested. I do have the information. The training dates,
11 the hire dates for the staff that were evaluated that were
12 hired between September 20 and February 21, the training
13 completion dates were January to June of '21. The new
14 training requirements went into place on March 1st of 2021.

15 And so, although our training was nearly identical
16 to the State's at the beginning, we were --

17 THE COURT: Well, it's -- it's actually eight
18 weeks. And the training of the -- of the State that I --
19 that I ordered, is 11 to 15 weeks.

20 MR. CARSON: Our training is -- I think the State
21 training ordered is 9 weeks and 13 weeks. Our training is
22 11 weeks and 15 weeks, if I'm correct.

23 So we have two weeks longer training than
24 required. And the content of the training has been
25 consistent ever since we started with community based case

1 in March of '20.

2 There were some team building and relationship
3 building activities that were different. But those have
4 been incorporated and so our trainings are identical now.

5 (Pause in the proceeding.)

6 THE COURT: Okay.

7 (Pause in the proceeding.)

8 THE COURT: Okay. Well, it's really DFPS' job to
9 make sure that the training is identical to what the Court
10 has ordered and recognized. And you can't bypass those
11 training issues by turning these children over to private
12 entities.

13 We got that?

14 MS. MASTERS: Sure, Your Honor.

15 THE COURT: Yes.

16 MR. CARSON: Yes, the training -- the training is
17 identical.

18 (Pause in the proceeding.)

19 THE COURT: Thank you.

20 I think Two Engage (phonetic) may have had a
21 problem with training. How is that going?

22 MS. DRYER: Your Honor, Shirley Dryer. And we are
23 in compliance with DFS training also. That started
24 March 1st of this year. And --

25 THE COURT: Why -- why is that? That was ordered

1 a long time ago.

2 Why did you wait till March to be in compliant
3 with the training? Now you've got all these caseworkers
4 that don't have the right training.

5 MS. DRYER: When we were approved, our training
6 plan was approved by DFPS, and it was in February of 2021
7 that they told us that we had to change our training to be
8 in compliance with DFPS training. And then we did.

9 (Pause in the proceeding.)

10 THE COURT: According to the caseworker load, OCOK
11 had 42 percent of their caseworkers with 18 or more
12 children. What are you doing about that, Mr. Carson?

13 (Pause in the proceeding.)

14 MR. CARSON: I believe we had 68 percent of our
15 caseload that was fully compliant at that time. That data,
16 due to the nature of the reporting, is dated now. Our
17 compliance is --

18 THE COURT: It's not the DFPS -- it's the nature
19 of you all's reporting.

20 MR. CARSON: No. I think the timeline that ended
21 on that, you know, we've had another --

22 THE COURT: That's fine.

23 MR. CARSON: -- four or five months. Anyway our
24 compliance is significantly higher. We have --

25 THE COURT: I think it's DFPS'.

1 MR. CARSON: Yes, and it's much better today than
2 it was at the time the data was pulled for this Report.

3 THE COURT: Okay.

4 (Pause in the proceeding.)

5 THE COURT: And the caseloads of those caseworkers
6 who share -- carry the children with unlicensed placements
7 is even more grim.

8 (Pause in the proceeding.)

9 THE COURT: And I noticed also in the Monitors'
10 Report that --

11 (Pause in the proceeding.)

12 THE COURT: -- those inspectors for -- in HHSC,
13 that half of the ones interviewed indicated that secondary
14 assignments do not appear on their caseload reports.

15 So, Ms. Young, will you do something about that?

16 MS. YOUNG: Yes, ma'am. I would like to have Jean
17 Shaw (phonetic) speak to this. Thank you --

18 THE COURT: Okay.

19 MS. YOUNG: -- Your Honor.

20 MS. SHAW: Yes, Your Honor. We're currently
21 watching our staff's workload. We do have secondary
22 assignments for staff that are considered there's a need for
23 a computer destination so the staff can have access to
24 workload information. They don't have access to when
25 they're assigned as the primary worker.

1 (Pause in the proceeding.)

2 THE COURT: Well, you need to start reporting that
3 in the Reports those secondary jobs, also.

4 MS. SHAW: Yes, Your Honor. We've been talking to
5 monitoring about how to make those reports.

6 (Pause in the proceeding.)

7 THE COURT: And did you all review the
8 insufficient -- the investigations that Monitors found to be
9 insufficient in the appendices to the Report.

10 Ms. Young?

11 MS. YOUNG: Go ahead, Jean.

12 MS. SHAW: Yes, Your Honor.

13 THE COURT: Ms. Shaw. Okay.

14 MS. SHAW: Yes. Yes, we did review that.

15 THE COURT: And?

16 MS. SHAW: And the report in the appendices, I
17 believe, related to DFPS abuse and neglect investigations.
18 But we did review the concerns with the Monitors about
19 deficiencies being cited or not cited as a result of those
20 investigations.

21 We've identified some areas of additional work we
22 need to do. And we're going to look further into those.

23 (Pause in the proceeding.)

24 THE COURT: A lot of these facilities where these
25 incidents occur have been closed. There was one, I don't

1 know which appendices it was in, but the caseworker went to
2 the home. It was a home placement. And the foster parents
3 didn't allow the caseworker to look through the house.

4 Ms. Fowler, do you remember which one that was?

5 (Pause in the proceeding.)

6 MS. FOWLER: Judge, I think that -- I did not
7 review that investigation.

8 THE COURT: Okay.

9 (Pause in the proceeding.)

10 THE COURT: On the summary of RCCR Minimum
11 Standards Investigation Findings assigned to Priority III,
12 that was Case I.D. 2729843 where the child had suicidal
13 ideas. She hadn't had a prescription medicine for five days
14 because the staff member didn't refill the prescription.

15 (Pause in the proceeding.)

16 MS. SHAW: Your Honor, I'm sorry to ask. Would
17 you mind repeating the investigation number? We're trying
18 to look up that in the remedial report.

19 THE COURT: Two, seven, two, nine, eight, four,
20 three.

21 MS. SHAW: Thank you.

22 (Pause in the proceeding.)

23 MS. SHAW: I'm sorry, Your Honor, we're having --
24 I'm tracking that --

25 THE COURT: That's all right. How about this one,

1 74604019. Seven, four, six, oh, four, oh, one nine.

2 (Pause in the proceeding.)

3 MR. RYAN: Judge, that's Number 13 in the
4 Appendix.

5 THE COURT: Yes.

6 MR. RYAN: For ease of reference.

7 THE COURT: Thank you. Thank you, Mr. Ryan. And
8 that was --

9 MS. SHAW: Thank you. I appreciate that.

10 THE COURT: -- where the foster father was making
11 derogatory and degrading comments to the child. And --

12 (Pause in the proceeding.)

13 THE COURT: -- the foster home is still open in
14 spite of not just that complaint, but other complaints,
15 about persistent threats of bodily harm.

16 MS. SHAW: Yes, Your Honor. We're over --

17 THE COURT: Verbal abuse. And that home is still
18 open?

19 MS. SHAW: Yes, Your Honor. We'll go in and look
20 closely at that case and see if we need to recommend the
21 possible closure of that foster home.

22 (Pause in the proceeding.)

23 THE COURT: Okay. I think that's it.

24 Monitors, is there something I'm missing that you
25 want me to discuss in the -- in your current Report?

1 MR. RYAN: Not from me, Your Honor.

2 THE COURT: Ms. Fowler?

3 MS. FOWLER: No, not from me.

4 (Pause in the proceeding.)

5 THE COURT: So on the last item.

6 (Pause in the proceeding.)

7 THE COURT: Panel Members, do you all know
8 anything about this TEP, was it in other states? We're not,
9 again, we're not talking about the compassionate respite
10 care. But this TEP business?

11 MS. MELTZER: So we didn't look specifically into
12 TEPs. But my understanding is that they are really designed
13 to be emergency, short-term placements. In many systems
14 that I've been -- work with have had, you know, some kind of
15 short-term emergency placement they use.

16 THE COURT: How about 2,900-and-some-odd days in
17 an --

18 MS. MELTZER: No.

19 THE COURT: -- in a non --

20 MS. MELTZER: That's what I was going to say.

21 The -- we -- again, we did not look at it in
22 depth. But it is -- seems like it is used to a very great
23 extent, and that actually children stay in these facilities
24 in the TEP placement sometimes for much longer than you
25 would want.

1 So it's a large -- you know, we think it's worth
2 looking at as an area for reform.

3 THE COURT: I'm real concerned about that.
4 Because it seems to be a substitute for the child, the --
5 the placements of children without placements. So they put
6 them from the unlicensed placements to the TEP, back to the
7 unlicensed, and back and forth --

8 MS. MELTZER: Right.

9 THE COURT: -- and back and forth.

10 MS. MELTZER: Right.

11 THE COURT: And, of course, TEP gets them over
12 \$400 a day, too --

13 MS. MELTZER: Right.

14 THE COURT: -- per person.

15 MS. MELTZER: And, you know, it's part of the same
16 pattern of instability --

17 THE COURT: It's not good.

18 MS. MELTZER: -- for children. Right.

19 THE COURT: And that's what the SSCCs are doing,
20 but they're calling them Steps.

21 MS. MELTZER: Right.

22 (Pause in the proceeding.)

23 THE COURT: This is my catchall folder I'm going
24 through to make sure I've asked everything that I want to
25 ask.

1 (Pause in the proceeding.)

2 THE COURT: Back in a hearing in May of 2021,
3 according to the Monitors' Report, the staff -- many of the
4 staff in these placements were unaware that they were
5 supposed to report abuse and neglect SWI, which is Remedial
6 Order Four.

7 What has been done to facilitate that?

8 MS. BANUELOS: Your Honor, after that, we did go
9 back. We are mandating Orders. We have to report by law.
10 And so we did go back and reiterate it to the caseworkers,
11 along with the regional directors that we must report, if we
12 suspect that there is any abuse or neglect going on.
13 Whether it be a licensed or unlicensed placement, we must
14 report.

15 THE COURT: And also back in May of last year,
16 DFPS had some concerns about abuse and neglect downgrades by
17 HHSC, I think vice-versa.

18 You think this cooperative panel will help with
19 that?

20 MS. BANUELOS: Yes, Your Honor.

21 (Pause in the proceeding.)

22 THE COURT: And are you carefully monitoring
23 the -- you know, those private facilities that surrendered
24 their licenses and make sure they're not opening up new
25 facilities under another name?

1 MS. SHAW: Right. Your Honor, this is Jean Shaw.

2 Yes, if an operation chooses to reapply under a
3 different name, we now have rules in place that would
4 combine the history from the prior operation --

5 THE COURT: Okay.

6 MS. SHAW: -- to the new operation.

7 (Pause in the proceeding.)

8 THE COURT: The Monitors still report, and we
9 talked about this again last May, that caregivers are not
10 receiving the Attachment As, which has to do with child
11 sexual aggression or victimization history.

12 I don't know how you, you know, who -- who's in
13 charge of that or how that can be rectified. But it needs
14 to be done rather quickly. Because clearly it's not
15 happening, or in the -- even in the places where it's
16 happening, nobody's -- some people are not paying attention.

17 MS. BANUELOS: Your Honor, may I speak to that?

18 THE COURT: Yes.

19 MS. BANUELOS: So we understand the importance of
20 it. And we did under my --

21 THE COURT: Who's speaking? I'm sorry.

22 MS. BANUELOS: Sorry. Your Honor, this is Erica
23 Banuelos.

24 THE COURT: Thank you.

25 MS. BANUELOS: So we did -- we have currently

1 about five program specialists who have -- are working under
2 a director who is specifically looking at Attachment A.

3 The information, the quality of the information
4 that is in there to ensure, number one, that it is correct
5 and two, that it's being given to the caregivers. So we
6 started working on that about, I want to say, maybe about
7 six months ago. And so we've made some -- some good, I want
8 to say that we made some changes to look at the quality and
9 ensure those are being given out. And we continue to
10 monitor that very closely.

11 'Cause we know how important that information is
12 to keep the kids safe. So we have implemented that process.

13 THE COURT: Are you all -- is the Department
14 making unannounced visits to check on 24-hour overnight --
15 the away night supervision?

16 MS. BANUELOS: Yes, we are, Your Honor.

17 THE COURT: And how is that going?

18 MS. MASTERS: To my knowledge, it's going well and
19 as expected.

20 (Pause in the proceeding.)

21 THE COURT: And what does it mean when they --
22 when a facility says they have virtual contract-only on --
23 in the isolation plan?

24 What did -- what kicks them into that? This has
25 to do with COVID.

1 (Pause in the proceeding.)

2 MS. DRYER: I think that's referring to if they
3 have over 10 percent of their -- of anyone in their
4 facility, once they reach that threshold, then workers are
5 asked not to come in. But they can do the virtual visits
6 and keep in contact with the kids.

7 And then once they reach back down under that
8 threshold, they can go visit face-to-face.

9 THE COURT: So what about the staffing? What do
10 you know about the staff of these nine entities that are now
11 on this COVID isolation business?

12 MS. DRYER: Yes, they're ones, Your Honor, that
13 have gone above the 10 percent threshold.

14 THE COURT: Right. But have you checked on their
15 staffing issues?

16 (Voices speaking off the record.)

17 MS. DRYER: It is -- it would be my understanding
18 that they would be just like all the other facilities.
19 There's not something different that would be done.

20 THE COURT: Well, how did you check on that if
21 you're not allowed to go in?

22 MS. DRYER: My guess is that they would come up
23 for their time to have the visit, they would either do that
24 virtually at the time or they would put them in another
25 status to go out once they come down off that threshold.

1 THE COURT: Well, you're talking about the
2 caseworker face-to-face visits. I'm talking about how do
3 you check that the staffing is adequate for these children?

4 MS. MASTERS: Jillian, can you take that?

5 MS. BONACQUISTI: Yeah. I can speak to that, Your
6 Honor. That is -- what you're referring to is caregiver
7 ratios. And that is something that is monitored by HHSC.

8 THE COURT: Ms. Young, what do you know about
9 this?

10 MS. SHAW: Your Honor, this is Jean Shaw.

11 Our staff are still going out and conducting
12 routine inspections --

13 THE COURT: Okay.

14 MS. SHAW: -- and investigations, regardless of
15 any kind of percentage rate of infected at the operation.

16 THE COURT: Okay. And by the way, all of your --
17 all of your people are vaccinated, right?

18 MS. SHAW: Your Honor, are you referring to our
19 staff?

20 THE COURT: Yes, that are going out to these
21 places to be -- to inspect?

22 MS. SHAW: So we don't have a requirement for a
23 vaccine, a mandatory requirement. They are -- all are
24 provided with PPE equipment to ensure that --

25 THE COURT: Okay.

1 MS. SHAW: -- we're safe.

2 THE COURT: So you don't know what their
3 vaccination status is?

4 MS. SHAW: No, Your Honor. I don't.

5 (Pause in the proceeding.)

6 THE COURT: Okay. Anything else that you all --
7 anybody here that wants any of the parties? Any of the
8 attorneys? Monitors? Any questions?

9 MR. NEUDORFER: Your Honor, this is Karl
10 Neudorfer, counsel for DFPS. I'm wondering if I could just
11 have a brief period, five minutes to cover the caseworker
12 caseload issue?

13 THE COURT: Yes, sir.

14 MR. NEUDORFER: Thank you, Your Honor. And Your
15 Honor, I'll direct my questions to Ms. Banuelos.

16 Ms. Banuelos, how are we tracking caseworker
17 caseloads today?

18 MS. BANUELOS: So we are tracking it through
19 various methods. We deployed a caseload tracking tool that
20 is available to every worker, every supervisor. It's a very
21 easy hyperlink that they can get on and it shows the entire
22 state.

23 And so that, not just -- that just -- doesn't just
24 include like their regular workload. It also captures if a
25 worker is on a graduated caseload, so a supervisor could see

1 if the workers are within the threshold or not. And then it
2 also encompasses the SSCC's workload.

3 So we're using that. We also have some reports
4 that we can look on data warehouse to look at the child
5 count. And that is also -- when supervisors are
6 conferencing monthly with workers, they also talk about the
7 child caseload counts. When we're trying to hire staff, we
8 are looking at the child case count.

9 MR. NEUDORFER: And so when a supervisor receives
10 notification through this tool that you mentioned that a
11 case -- a caseworker's caseload is -- looks like it may be
12 excessive, what actions are taken in response to that?

13 THE COURT: What is excessive? What is excessive
14 in your opinion? Give me the definition before --

15 MS. NEUDORFER: Your Honor, when a -- when a
16 caseworker's caseload begins to exceed the guidelines that
17 are --

18 THE COURT: Okay.

19 MS. NEUDORFER: -- in here, 18 and up.

20 THE COURT: Do you have an -- do you have an alert
21 system for that?

22 MS. BANUELOS: We do. So the daily caseload
23 tracker does capture that. It turns a different color when
24 a worker is above a threshold.

25 THE COURT: Thank you.

1 MS. BANUELOS: They are able to see that, Your
2 Honor.

3 THE COURT: So that's -- then what happens?

4 MS. BANUELOS: So as I mentioned, the supervisors
5 do have conferences with workers to try to figure out if
6 they can move cases. If they can't, how to support them.

7 They will work together as a team within a unit to
8 see children and make sure that all the kids get seen.
9 There's a lot of strategizing that goes on at the program
10 level, at the Program Director level, and even up to their
11 Regional Director level.

12 We absolutely understand that getting caseworkers
13 with 17 and below is definitely our target. And so we
14 continuously try to strategize and work on how we can make
15 that happen. And work Regional Directors at the Regional
16 level have implemented various plans to try to get there.

17 THE COURT: So do you have a management report
18 that shows state-wide caseloads on a worker on any given
19 day? Do you have those that -- that can be printed out and
20 given at least weekly to the Monitors?

21 MS. BANUELOS: I know -- I know that the daily
22 caseload tracking tool does. It's a real time. I don't
23 know if we can print it out and -- but I can find --

24 THE COURT: Well, could they just -- could they
25 have --

1 MS. BANUELOS: I do have --

2 THE COURT: -- access to it? Is it on a computer
3 thing where they can access it with their -- with their
4 authority?

5 MS. BANUELOS: Yes. It's in IMPACT. So I'm
6 assuming that if the Monitors have access to our IMPACT
7 system, they can usually find it on the workload.

8 But let me get that answer for you.

9 THE COURT: Okay. Because they're getting it
10 every 30 days. And that's really not enough for our
11 purposes of tracking.

12 MS. BANUELOS: I understand, Your Honor.

13 THE COURT: If you can do it -- if you can do it a
14 little bit, you know, weekly. Or if they can have access to
15 the dailies, without even having to print it out, or going
16 to any extra trouble, that would be really helpful.

17 MS. BANUELOS: Absolutely, Your Honor.

18 THE COURT: How are you all doing in both HHSC and
19 DFPS on your caseworker turnover?

20 MS. BANUELOS: So on the -- what I can speak to on
21 the DFPS side for turnover, you know, we have seen an
22 increase. And I think the Monitors in some of their
23 interviews that with caseworkers, you know, caseworkers did
24 talk about their stress level with everything -- all the
25 various things we have going on.

1 So we have seen some turnover. So between the
2 period that the Monitors graded, we did lose -- we hired
3 about 319 caseworkers, but we also had 309 caseworkers leave
4 at the same time.

5 So we definitely have struggled a little bit with
6 turnover where in the past we had not. With that said, we
7 were very fortunate to get some appropriations this past
8 session with -- and if I could just explain a little bit
9 about that, Your Honor?

10 THE COURT: Please.

11 MS. BANUELOS: So we did get some additional
12 caseworker positions to assist with bringing down the child
13 caseload. And those positions came in towards the end of
14 May.

15 And so in May we started, I'm sorry, in June of
16 2021, we started hiring. And so we had about 129
17 caseworkers and supervisor positions to bring down the
18 ratio.

19 And I want to tell you, Your Honor, that I -- as I
20 was trying to determine where to place these positions, I
21 specifically looked at the child count across the State to
22 determine where I needed to put the positions.

23 And so that I how I allocated them. Now these
24 positions were hired sometime in June. We do have a 13-week
25 training program. And in addition to that, we have two

1 months of graduated caseload.

2 So when you look at the entirety of when these
3 caseworkers will actually be fully case assignable, we're
4 looking at about seven months down the line. And that's
5 okay. Because we need to make sure that they are -- they're
6 trained properly. And we need to make sure that they have
7 some good experience while they're doing their graduated
8 caseload.

9 (Pause in the proceeding.)

10 THE COURT: Thank you.

11 MS. BANUELOS: You're welcome.

12 THE COURT: Any other attorneys want any other
13 questions of any of the people while they're here?

14 MR. YETTER: Your Honor, I have -- I'd like to
15 follow-up on that last line of questioning about caseloads
16 with Ms. --

17 THE COURT: Sure.

18 MR. YETTER: -- Banuelos.

19 You say that this is a real time daily caseload
20 tracking tool that allows you to see across the State the
21 various caseloads for all of the conservatorship caseworks?
22 Am I right about that?

23 MS. BANUELOS: That is correct.

24 MR. YETTER: And you've seen the statistics in
25 the -- that the latest Report of the Monitors put out.

1 What is the -- which are dated a couple of months
2 ago. Do you have a current statistic for the percentage of
3 conservatorship caseworkers that have 18 or more children on
4 their caseload? In other words, they're in violation of the
5 standard?

6 MS. BANUELOS: I can certainly -- I could look
7 that up right now. If you'd just give us a second. Because
8 we do have the daily caseload tracker and I can get that for
9 you.

10 I will tell you, Mr. Yetter, that we have
11 consistently stayed at about 40 percent of them being 18 and
12 up. And when I drill it down to what it looks like,
13 specifically, we have over 1,000 that are 17 and below. And
14 we typically run about 570 maybe that are between 18 and 25.
15 And then we have, I want to say maybe less than a hundred
16 that are between 25 and higher.

17 MR. YETTER: So --

18 MS. BANUELOS: But I'll look at the daily caseload
19 right now and I can give that to you.

20 MR. YETTER: That would be helpful.

21 THE COURT: When I saw, Mr. Yetter, what I saw in
22 one of the footnotes, or somewhere in one of the Monitors'
23 Reports, is that a lot of those with the huge caseloads of
24 over 18 and 25 and older -- over, were -- included cases
25 with that, children without licensed placements, which is

1 every more frightening.

2 MR. YETTER: Yeah. And that -- yes, Your Honor.
3 I'd like to follow-up on that.

4 So just a couple of questions, though. Where
5 geographically in the State are you finding the most
6 violations of the standard?

7 MS. BANUELOS: So Travis County, Region VII,
8 typically is a little bit higher on their child case count.
9 That is where I did allocate a lot of additional positions.

10 And then also in the area of III West, which would
11 be what's not outsourced around Harris County, around that
12 area. Those were the two highest ones. And then we have
13 Bexar County.

14 THE COURT: Okay. So what -- what about -- can
15 I -- did I get the answer about caseworker turnover?

16 MS. DRYER: We've gone in the last six months,
17 Your Honor, from 25 percent to 30 percent. So we have seen
18 an increase.

19 THE COURT: Okay. And that's HHSC or D --
20 where -- where am I?

21 MS. DRYER: This is DFPS for CPS.

22 THE COURT: And what about, Ms. Young, what about
23 your turnover rate?

24 MS. SHAW: Your Honor, this is Jean Shaw.
25 We are averaging a turnover rate in our

1 residential childcare program of anywhere from 15 to
2 20 percent per month.

3 We are actively hiring. That was --

4 THE COURT: Per month?

5 MS. SHAW: On an average, yes.

6 (Pause in the proceeding.)

7 MR. YETTER: Is that on an annual average? Is
8 that -- you're not saying you're losing --

9 THE COURT: Every month, she's saying.

10 MS. SHAW: Our turnover rate is -- it's not
11 actually new people it's maybe carryover until we're hiring,
12 we have a vacancy rate of about -- I'm sorry, I'm speaking
13 too much over, my apologies.

14 THE COURT: Okay. Vacancy. Okay. So that's the
15 consistent one.

16 MS. SHAW: Yes.

17 THE COURT: You're not losing 15 to 20 percent of
18 people very month.

19 MS. SHAW: No, Your Honor. I'm sorry. That's my
20 apology for the confusion.

21 (Pause in the proceeding.)

22 THE COURT: What about -- do you have a turnover
23 rate? Is the investigators or anything else in your staff?

24 MS. SHAW: I can get that for you. I don't have
25 the information right now.

1 THE COURT: Could you get that to the Monitors by
2 noon tomorrow, please?

3 MS. SHAW: Yes, Your Honor.

4 (Pause in the proceeding.)

5 MR. YETTER: Your Honor, if I could just follow-up
6 just a couple more questions --

7 THE COURT: Yes, go ahead.

8 MR. YETTER: -- if we could go back to the DFPS?

9 Ms. Banuelos, in the -- it is clear, is it not,
10 that the children without -- children in unlicensed
11 placements is causing -- is placing additional, significant
12 burden on the caseworkers for DFPS; is it not?

13 MS. BANUELOS: I would agree that it is really
14 difficult for caseworkers.

15 MR. YETTER: And that additional burden is adding
16 to the turnover; you'd agree?

17 MS. BANUELOS: I would agree. In their reason for
18 leaving, they have cited that they are very high stressed.

19 MR. YETTER: So you really have two huge problems;
20 the placement crisis and the caseload crisis, which are --
21 which are interdependent. And solving the placement crisis
22 will help you with your caseworker crisis, right?

23 MS. BANUELOS: I would absolutely agree with that.

24 MR. YETTER: All right. So there's no time to
25 lose in solving the placement crisis, because it is also

1 causing you to lose seasoned, valuable caseworkers which is
2 making the children in licensed placements, putting them at
3 risk as well is it not?

4 MS. BANUELOS: I'm sorry. Can you repeat that?

5 MR. YETTER: Sure. There's no time to lose,
6 because until you can solve the children in unlicensed
7 placements, you're going to be putting a tremendous stress
8 on your conservatorship caseworkers, which puts the children
9 in licensed placements at risk, right?

10 MS. BANUELOS: Yes.

11 MR. YETTER: Okay. I think that's all I have,
12 Your Honor.

13 THE COURT: Anybody have any other questions?

14 (No audible response.)

15 THE COURT: I want to thank you all very much for
16 coming. And I really appreciate the cooperative attitude
17 today and hope we can expand on that for the sake of these
18 children and avoiding problems in the future.

19 And I'll be anxious to hear how your meeting goes
20 with the Panel tomorrow, and the Monitors, and the parties.

21 And thank you, Panel. I feel like you validated
22 the work of the Court and the Monitors today. And I've very
23 grateful. And --

24 MR. VINCENT: Glad to be helpful.

25 THE COURT: Thank you very much.

1 MR. YETTER: We say the same on behalf of the
2 children, Your Honor.

3 THE COURT: You're excused. Thank you.

4 (Proceedings adjourned at 2:56 p.m.)

5 * * * * *

6 I certify that the foregoing is a correct
7 transcript to the best of my ability due to the condition of
8 the electronic sound recording of the ZOOM/video/telephonic
9 proceedings in the above-entitled matter.

10 /S/ MARY D. HENRY

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14 JTT TRANSCRIPT #65043

15 DATE FILED: JANUARY 17, 2022

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